

1 XAVIER BECERRA  
Attorney General of California  
2 PEGGY S. RUFFRA  
Supervising Deputy Attorney General  
3 JILL M. THAYER  
Deputy Attorney General  
4 State Bar No. 166428  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5954  
6 Fax: (415) 703-1234  
E-mail: Jill.Thayer@doj.ca.gov  
7 *Attorneys for Respondent*

8  
9 IN THE UNITED STATES DISTRICT COURT  
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION

12  
13 **CRAIG RICHARD CHANDLER,**

17-cv-00325-EMC

14 Petitioner,

**EXHIBITS**

15 v.

16 **SCOTT FRAUENHEIM, Warden,**

17 Respondent.  
18

19  
20 Exhibit 1 State Court Clerk's Transcript<sup>1</sup> (Vols. 3-4)  
21  
22  
23

24 <sup>1</sup> The prosecution and defense witness lists are omitted because they were filed under seal  
25 in state court. The confidential probation report and supplements to the confidential probation  
26 report are omitted, except as indicated below, pursuant to California Penal Code § 1203.05. The  
27 sealed orders prohibiting contact between petitioner and the minor victims are omitted because  
28 they were sealed in state court and disclose the minor victims' names. Respondent has filed a  
motion to file under seal transcripts of the video CDs of the interviews of the minor victims and a  
letter to the trial court from petitioner's mother which was attached to the confidential probation  
report because they were filed under seal in state court but referred to in the state court opinion  
and/or the memorandum of points and authorities filed in support of the answer.

# **EXHIBIT 1**

## **(Vol. 3)**

COURT OF APPEAL, STATE OF CALIFORNIA,  
IN AND FOR THE SIXTH APPELLATE DISTRICT

THE PEOPLE,

V.

CRAIG RICHARD CHANDLER

PLAINTIFF AND  
RESPONDENT,

DEFENDANT AND  
APPELLANT.

COURT OF APPEAL NO.: H040429

VOL. 3 of 7

PAGES 353 thru 648

**CLERK'S TRANSCRIPT**

CLERK'S TRANSCRIPT ON APPEAL FROM THE JUDGMENT OF THE SUPERIOR COURT OF THE  
STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF SANTA CLARA.

SUPERIOR COURT NUMBER: C1223754

HONORABLE ARTHUR BOCANEGRA, JUDGE

**APPEARANCES:**

ATTORNEY GENERAL  
455 GOLDEN GATE AVENUE  
ROOM 11000  
SAN FRANCISCO, CA 94102

COUNSEL FOR PLAINTIFF  
AND RESPONDENT

SIXTH DISTRICT APPELLATE PROGRAM  
100 NORTH WINCHESTER BLVD, SUITE 310  
SANTA CLARA, CA 95050

COUNSEL FOR DEFENDANT  
AND APPELLANT

NOTICE OF APPEAL FILED

November 22, 2013

NOTICE OF COMPLETION

**JAN 29 2014**

In the Superior Court of the State of California  
In and for the County of Santa Clara



The People of the State of  
California,

Plaintiff,

vs.

Case No. C1223754

Craig Richard Chandler,

Defendant(s).

Reporter's Transcript of Proceedings

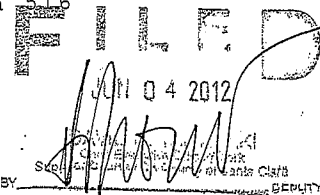
May 23, 2012

Before the Honorable Michele McKay McCoy

Preliminary Examination

Volume III of III

Pages 353 through 516



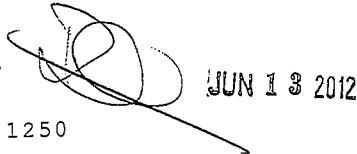
Appearances:

FOR THE PEOPLE:

Office of the District Attorney  
BY: ALISON FILO  
Deputy District Attorney  
70 West Hedding Street  
San Jose, California

FOR THE DEFENDANT:

Law Office  
BY: CHRISTOPHER SCHUMB  
BY: STEVEN CLARK  
Attorneys at Law  
10 Almaden Blvd., Ste. 1250  
San Jose, California





## EXAMINATION INDEX

A.

Continued Cross by Mr. Schumb	360
Redirect by Ms. Filo	374
Recross by Mr. Schumb	382
Examination by the Court	384
Redirect by Ms. Filo	386
Cross by Mr. Schumb	387

RUSSELL CHUBON

Direct by Ms. Filo	389
Cross and Direct by Mr. Clark	391
Cross and Redirect by Ms. Filo	411
Redirect and Recross by Mr. Clark	412

KRISTIN CARDOSA

Direct by Ms. Filo	414
Voir Dire by Mr. Clark	415
Continued Direct by Ms. Filo	421
Cross by Mr. Clark	431

SEAN PIERCE

Direct by Ms. Filo	464
Cross by Mr. Clark	484

## EXHIBIT INDEX

Defendant's Exhibit C is marked	394
Defendant's Exhibit C is admitted	413
Defendant's Exhibit D is remarked and admitted	418
Court's Exhibit 4 is marked	424

1 May 23, 2012

2 P R O C E E D I N G S

3 THE COURT: Returning to the Chandler case.  
4 Where are we this morning, counsel?

5 MS. FILO: Your Honor, I think we have, we  
6 have counsel here from the Public Defender's Office.  
7 Sylvia Perez McDonald is currently meeting with Lyn  
8 Vijayendran with respect to her Fifth Amendment  
9 privileges. She has advised me that she will advise  
10 the witness, um, to assert her Fifth Amendment  
11 privileges and not testify, um, so she just asked for a  
12 few minutes to be able to confer with her in order to  
13 do that.

14 THE COURT: Tell me, who is the Deputy Public  
15 Defender?

16 MS. FILO: Sylvia Perez McDonald. So I can  
17 see if she's ready. In the meantime, we have Ms. A.,  
18 who has rejoined us to continue her examination, but I  
19 would like to be heard about her continued examination.

20 THE COURT: All right. I see Ms. Sylvia Perez  
21 McDonald. Thank you very much.

22 MS. McDONALD: Good morning, Your Honor.

23 THE COURT: Good morning and thank you for  
24 your help.

25 MS. McDONALD: You're welcome.

26 THE COURT: The court asked for an attorney,  
27 um, from the Public Defender's Office to advise  
28 Ms. Lyn Vijayendran as to whether or not it would be

1     advisable for her to claim her Fifth Amendment rights.  
2     Yesterday I found a colorable claim to that based on  
3     the failure to report to the police or social services  
4     as required by Penal Code Section 11166. Um, do you  
5     have any input for me, Ms. McDonald?

6             MS. McDONALD: Yes. based on my review of the  
7     facts and my conversations with, um, the witness this  
8     morning and my review of the notes as well as police  
9     report summary, I do believe that she is exposed to  
10    potential criminal prosecution. I'm not aware she's  
11    been offered immunity and that's been confirmed for me  
12    today. The potential for prosecution is very, very  
13    high as well as the potential civil consequences that  
14    this testimony could expose her to. So based on the  
15    above, I'm going to advise her not to proceed and not  
16    to testify for fear that she will cross examine  
17    herself.

18            THE COURT: All right. Um, I'll accept that  
19    representation. I find that, um, Ms. Vijayendran is  
20    unavailable as a witness under Evidence Code 240(a)(1)  
21    in it that she is precluded on the ground of privilege  
22    from testifying concerning the matter to which her  
23    statement is relevant.

24            MS. FILO: Your Honor, I believe that the  
25    appropriate process is, um, that representation is to  
26    be made and I think the witness then has to, um, at  
27    least state on the record, that she is prepared to  
28    follow that advice.

1 THE COURT: Well, I accept Ms. Perez  
2 McDonald's representation as an officer of the court,  
3 but if you want me to personally ask her, I will be  
4 happy to do that.  
5 MR. CLARK: I think it has to be a personal  
6 assertion.  
7 THE COURT: Thank you. Ms. Vijayendran, would  
8 you step up to the microphone next to Ms. McDonald  
9 please. Thank you.  
10 Ms. Vijayendran, Ms. Perez McDonald tells me  
11 that you intend to claim your right of the Fifth  
12 Amendment against self-incrimination because, um, the  
13 subject of your testimony might expose you to criminal  
14 prosecution. Is that correct?  
15 THE WITNESS: Yes.  
16 THE COURT: And do you claim the privilege?  
17 THE WITNESS: Yes.  
18 THE COURT: Thank you. Is there anything  
19 either counsel would like me to do?  
20 MS. FILO: No. Thank you, Your Honor.  
21 MR. CLARK: No, Your Honor.  
22 THE COURT: All right, thank you very much.  
23 And now do the People wish to be heard concerning  
24 Ms. A.?  
25 MS. FILO: Thank you very much.  
26 MS. McDONALD: I'm sorry, Your Honor, is she  
27 now relieved from the subpoena?  
28 MS. FILO: She is now relieved from the

1 subpoena.

2 MR. SCHUMB: And ours as well.

3 MR. CLARK: Yes.

4 THE COURT: Thank you.

5 MS. FILO: I do, Your Honor. I spent some  
6 time last night thinking about the cross examination of  
7 Ms. A. And I have some concerns about the way that,  
8 um, that that examination occurred. And I know that  
9 the court is well familiar with, um, Evidence Code  
10 Section 765 which really restricts counsel to  
11 age-appropriate questioning. And I think, um, I  
12 understand that counsel has a right to lead on cross  
13 examination, but I think the questioning yesterday  
14 really rose to the level of not just leading, but of  
15 misleading and trickery.

16 And I think it is, um, extremely difficult and  
17 would have been extremely difficult, even for an adult  
18 witness, to, um, appropriately and honestly answer the  
19 questions that were posed to her yesterday. And I'm  
20 concerned that if we continue down that same line of  
21 questioning, I think that Mr. Schumb's questions to her  
22 were unfair and were, um, inappropriate for her  
23 developmental and intellectual ability.

24 THE COURT: What remedy are you asking from  
25 me?

26 MS. FILO: I'm asking for an instruction from  
27 the court that, um, counsel limit his questions to  
28 those that are reasonably found within the record,

1 reasonably found within the police report. Um, we had  
2 questions yesterday about other witnesses' testimony,  
3 about, um, statements that could or could not be  
4 confirmed within the police report. If she's going to  
5 be asked about prior consistent or inconsistent  
6 statement that that be provided to her so she can  
7 review it.

8 I just think that it got, um, the questioning,  
9 like I say, got to the point yesterday, or, that I be  
10 allowed to interpose objections when I feel that that  
11 is happening. Um, it is not a specific evidentiary  
12 objection, other than Evidence Code Section 765. So if  
13 the court would permit me to assert that objection, um,  
14 at the time I feel like those questions are occurring,  
15 um, I think that would be appropriate.

16 But there is not a traditional legal objection  
17 to the question and I couldn't, I think that's the best  
18 summary of what I felt was inappropriate yesterday.

19 THE COURT: Well, I have very little control,  
20 except for the most general sense over what questions a  
21 party chooses to ask. I pretty much have to wait the  
22 attorney asks it and wait for an objection from  
23 opposing counsel.

24 If it wasn't clear before, I do make the order  
25 under 756(b) of the Evidence Code that I forbid the  
26 asking of a question which is in a form not reasonably  
27 likely to be understood by a person of the age or  
28 cognitive level of the witness.

1           Um, apart from that, I only have the general  
2       duty under 765(a) reasonable control over the motive  
3       interrogation of a witness so as to make interrogation  
4       as rapid and as distinct and as effective for the  
5       ascertainment of the truth as may be and to protect the  
6       witness from undue harassment or embarrassment. We'll  
7       just have to proceed with the questions. If you have  
8       an objection, I'll be happy to entertain it.

9           MS. FILO: Thank you, Your Honor.

10          THE COURT: Thank you. Would you ask Ms. A.  
11       to come over?

12          MS. FILO: Yes.

13          THE COURT: Good morning, Ms. A. All right.  
14       You're in your chair. I'm in mine. We're ready to  
15       start. I remind you that you still have promised to  
16       tell the truth. Thank you.

17          Please proceed.

18          A., having been previously been sworn to tell  
19       the truth, testified as follows:

20          MR. SCHUMB: Thank you, Your Honor.

21                       CONTINUED CROSS EXAMINATION

22       BY MR. SCHUMB:

23           Q. All right. Good morning, Ms. A., how are you?

24           A. Good.

25           Q. All right. Are you nervous today?

26           A. Yes.

27           Q. A little less? Yesterday you kind of got  
28       through it. You got a little bit of practice, right?

1 A. Yes.

2 Q. Hey, um, after thinking last night, was there  
3 anything about your testimony that you want to clarify  
4 or you want to tell me about after thinking about  
5 anything that you said yesterday?

6 A. No.

7 Q. Okay. And at any time, if I say anything that  
8 you don't understand or you don't quite get, as the  
9 judge told you, please tell me, Mr. Chris, I don't  
10 understand what you're saying. Okay?

11 A. Okay.

12 Q. All right. Um, did, um, I think yesterday we  
13 talked about that you might have talked to your friend  
14 Ashlyn about, um, playing the game with Mr. Chandler?

15 A. No.

16 Q. No? Okay. Um, you don't talk -- you don't  
17 remember talking to Ashlyn about the blindfold or  
18 anything like that?

19 MS. FILO: Objection, Your Honor, asked and  
20 answered.

21 THE COURT: Sustained.

22 MR. SCHUMB: I'm just trying to refresh the  
23 witness' recollection.

24 THE COURT: She said "no."

25 BY MR. SCHUMB:

26 Q. Um, when you were interviewed, I think you  
27 said now you only were interviewed by a police officer  
28 one time, right?



1 A. Yes.

2 Q. Did he have like a piece of paper in front of  
3 him that he was checking boxes off or filling out when  
4 he interviewed you?

5 A. Yes.

6 Q. Okay. Was it like a preprinted form or was it  
7 just a notepad?

8 A. Like a notepad.

9 Q. A notepad, okay. Um, now, when you first sat  
10 down with the police officer, um, I think he asked if  
11 you were going to tell the truth. Remember that?

12 A. Yes.

13 Q. I think you said you were, right?

14 A. Yes.

15 Q. Okay. And he asked you -- do you recall if he  
16 asked you whether you had talked to your cousin Noemi  
17 about Mr. Chandler?

18 A. Yes.

19 Q. What did you tell him?

20 A. The police?

21 Q. Yeah, the first time.

22 A. That I told her.

23 MR. SCHUMB: Okay. Your Honor, if I can  
24 provide the court with the certified original  
25 transcript of the video CD of Ms. A.?

26 BY MR. SCHUMB:

27 Q. I'm reading from page 5 of the transcript of  
28 the videotaped interview of Ms. A. from line 2 to line

1 5. Interviewer: Okay, okay, did you talk to a cousin  
2 recently about something that might have happened to  
3 you? Minor child: Ms. A.: No. Do you remember  
4 telling the police officer, no, that you did not talk  
5 to your cousin?

6 A. No.

7 Q. Um, when you talked to the police officer at  
8 the station, you were comfortable and you weren't  
9 worried or afraid, were you?

10 A. Yes.

11 Q. Oh, you were worried and afraid? You're  
12 shaking your head yes. Remember a nod is as good as  
13 a wink to a court reporter so you got to give me a  
14 "yes" or a "no."

15 A. Yes.

16 Q. Why were you afraid about talking to the  
17 police officer?

18 A. Because I thought I was going to more places.

19 Q. Okay. Um, now, do you recall that, when you  
20 were playing the game with Mr. Chandler, that, um, I  
21 think you already testified that he said suck it and  
22 lick it, right?

23 A. Yes.

24 Q. And did he say anything else?

25 A. No.

26 Q. Didn't -- do you remember telling, um, the  
27 police officer that Mr. Chandler told you to bite it?

28 A. Yes.

1 Q. Okay. Did Mr. Chandler tell you to bite it?

2 A. Yes.

3 Q. Did he tell you to bite it every time he put  
4 the thing in your mouth?

5 A. No.

6 Q. Okay. How many times did he tell you to bite  
7 it when he had the thing in his mouth, the thing in  
8 your mouth?

9 A. One time.

10 Q. One time? Was it the second time? Third  
11 time? Or was it the fourth time? Or do you remember  
12 which?

13 A. The second time.

14 Q. Second? Okay. If you're not sure, you can  
15 say, I don't remember which time it was.

16 A. I don't remember.

17 Q. It's okay. You don't have to give me an  
18 answer if you don't know.

19 A. Okay.

20 Q. I know it's a long time ago, okay? And this  
21 isn't like a test where you flunk it if you don't have  
22 every answer right, okay?

23 A. Okay.

24 Q. Seriously. Okay. So, um, you said that you  
25 thought you saw Mr. C. pull his zipper one time?

26 A. Yes.

27 Q. Where was he standing when you saw this?

28 A. In the closet.

1 Q. Okay. Do you want me to put a picture up?  
2 Would that help you describe it? Okay. And that's  
3 okay too if you want me to show you a picture to help  
4 you remember. I'll put it right up here. So let me  
5 take -- does that show, showing you Exhibit B., does  
6 that show the closet?

7 A. Yes.

8 Q. Okay. And is the closet the big long  
9 rectangular object in the sort of upper middle center  
10 left hand side of the picture?

11 A. Yes.

12 Q. Okay. And so he was standing in front of it?

13 A. Yes.

14 Q. Okay. And which direction was he facing?

15 A. On the closet.

16 Q. He facing towards the closet?

17 A. Yes.

18 Q. Was he putting stuff away inside the closet or  
19 was he just standing there? Or do you remember?

20 A. I don't remember.

21 Q. Okay. It's a great answer, okay? A lot of  
22 people don't remember things. And where were you  
23 standing or sitting? Or what were you doing? Were you  
24 standing or sitting at the time you saw in this?

25 A. Sitting.

26 Q. Okay. And where were you sitting, where you  
27 put the sticky where it says, "Ms. A."?

28 A. Yeah.

1 Q. Great. How far do you think that is? Do you  
2 know feet? You probably can't tell. Let me see if I  
3 can make it easier for you, okay? Every lawyer always  
4 has a tape measurer in their bag, okay? So it's  
5 probably hard for you to guess like how many feet,  
6 right, because that's not easy to do. But if you hold  
7 the tape measurer, can you tell me how far you think  
8 Mr. Chandler was away from you when you saw him or  
9 thought you saw him putting his zipper up? Think you  
10 can do that for me?

11 A. Yes.

12 Q. Okay. So you take that, hold that right close  
13 to you, all right? And you tell me where to stop. You  
14 can tell me closer or farther.

15 A. Farther.

16 Q. Farther?

17 A. Right there.

18 Q. Okay. So I'm looking at the tape and right to  
19 my chest is eight feet, 96 inches. Is that about  
20 right?

21 A. Yes.

22 Q. Great, thanks. Now, you were sitting in your  
23 chair. And which direction were you facing?

24 A. To the door.

25 Q. Towards the door right here?

26 A. Yeah.

27 Q. Okay. And then Mr. Chandler was out of the  
28 side, facing the closet?

1 A. Yeah.  
2 Q. So you saw him from the side when you thought  
3 you saw him zipping up the zipper.  
4 A. Yeah.  
5 Q. And did you see him do anything or just saw  
6 him move his hands?  
7 A. Just saw him move his hands.  
8 Q. And did you have your glasses on?  
9 A. No.  
10 Q. And I think when you testified earlier is you  
11 thought you saw him do his zipper, but you're not  
12 positive about that. Is that true?  
13 A. Yes.  
14 Q. Okay. Um, now, yesterday when we ended, I was  
15 trying to figure out, um, how the pushing started.  
16 Remember you testified about the pushing and  
17 Mr. Chandler pushed you? okay. So what I want to find  
18 out is, I think you said that he was, you were standing  
19 there and he asked you to get down on the ground and  
20 then did the pushing, right?  
21 A. He got a ball.  
22 Q. A ball, okay. I'm sorry, I misstated it.  
23 Yeah, you're right. You said he got a ball out of the  
24 blue -- excuse me, red --  
25 A. Red.  
26 Q. Thank you. Correct me. The red tub there.  
27 Good. Do you remember what color the ball was?  
28 A. No.

1 Q. And, um, where had you been just before he  
2 took the ball out of the red tub? Had you come from  
3 outside? Had you already been in the classroom? Or do  
4 you remember? If you don't remember, that's okay too.

5 A. I don't remember.

6 Q. Okay, all right. Um, you said that you didn't  
7 have the blindfold on when you were, he was doing the  
8 pushing, right?

9 A. Yes.

10 Q. Did you ever have the blindfold on that day or  
11 no?

12 A. No.

13 Q. Okay, all right. So I guess that means that,  
14 to the best that you recall, you just came into the  
15 room that day and he asked you to get down on the floor  
16 and he had the ball and did the pushing more or less.  
17 Is that fair to say?

18 A. Yes.

19 Q. Okay. Um, now, you said that, um, this yellow  
20 water, you saw this yellow water falling?

21 A. Yes.

22 Q. And, um, let me show you Exhibit -- well, I'll  
23 leave Exhibit B up here. Is the area where the yellow  
24 water fell, can you see that in Exhibit B?

25 A. Yes.

26 Q. Okay. Let me get you a sticky.

27 Now I'm going to write, "Ms. A. 1," okay?

28 Because we already have a "Ms. A." on there. I think

1 I'll put "Ms. A. 2." That's probably easier. And I'm  
2 going to hand that sticky to you. If I bring the  
3 picture over to you, can you put the sticky on there  
4 where you think the water fell?

5 A. Yeah.

6 Q. Thanks. Good job. Great. So now the Post-it  
7 that says, "Ms. A. 2" is where you saw the yellow water  
8 fall.

9 A. Yes.

10 THE COURT: The witness has placed it in the  
11 middle of the photograph towards the bottom edge.

12 Go ahead please.

13 MR. SCHUMB: Thank you, Your Honor.

14 BY MR. SCHUMB:

15 Q. Um, now the, um, when yellow water fell on the  
16 ground, um, did Mr. Chandler clean it up?

17 A. No.

18 Q. No. Um, you didn't clean it up.

19 A. No.

20 Q. So to your knowledge it just stayed there; is  
21 that correct?

22 A. Yes.

23 Q. Okay. And I think you said that, while  
24 Mr. Chandler was pushing you, he had his hands on your  
25 ankles?

26 A. Yes.

27 Q. And that was the whole time he was pushing you  
28 to the very end?



1 A. No.

2 Q. Well, he put his hands on your ankles when he  
3 started to push, right?

4 A. No.

5 Q. Do you understand my question? Am I being  
6 clear?

7 A. No.

8 Q. Okay. That's okay.

9 A. No.

10 Q. If you don't understand my question, say,  
11 Mr. Chris, I don't understand what you're asking, okay?

12 A. Okay.

13 Q. Do you remember, I think you testified that he  
14 had you get down on your hands and knees, right?

15 A. Yes.

16 Q. And then he put his hands on your ankles?

17 A. Yes.

18 Q. And then when he was done pushing you, then he  
19 took his hands off your ankles and you got up, right?

20 A. Yes.

21 Q. So the whole time he was pushing you, did he  
22 have his hands on your ankles?

23 A. No.

24 Q. At what point did he take his hands off your  
25 ankles?

26 A. He was -- he got a ball and he did move the  
27 ball.

28 Q. Moved the ball, okay. Was that at the very

1 beginning or was that in the middle while he was  
2 pushing you or what?

3 A. The beginning.

4 Q. Okay. So in the beginning he got the ball and  
5 he put it between you and him, right?

6 A. Yes.

7 Q. Okay. And then he grabbed your ankles, right?

8 A. Yes.

9 Q. And then he was pushing you. And the whole  
10 time he was pushing you, after he had the ball there,  
11 were his hands on your ankles?

12 A. No.

13 Q. At what point did the hands come off your  
14 ankles?

15 A. He just got, um, my ankles and he said to  
16 stay.

17 Q. Okay. And then did he have his hands on your  
18 ankles the whole time?

19 A. No.

20 Q. So when did he take his hands off your ankles?

21 A. Um, he just said to stay.

22 Q. To stay, okay. And then did he take his hands  
23 off your ankles?

24 A. Yes.

25 Q. Okay. And then what did you do?

26 A. I don't remember.

27 Q. Okay, good. That's a good answer. That's a  
28 fine answer. If you don't remember, you tell me. You

1 can also tell me, Mr. Chris, I'm confused. Do you know  
2 what that word means where you're confused, you're just  
3 not quite sure?

4 A. Yes.

5 Q. Okay. Um, now, I think, um, when we were  
6 talking about yesterday when he gave you the liquid,  
7 did he give you the liquid all four times that you  
8 played the game alone or was it less than four?

9 MS. FILO: Objection, Your Honor. Asked and  
10 answered.

11 THE COURT: Just a moment.

12 THE WITNESS: Two.

13 MR. SCHUMB: I'm kind of laying a foundation,  
14 Your Honor.

15 THE COURT: Just a moment.

16 Can I have the question read back.

17 (The requested record is read.)

18 THE COURT: The objection is sustained.

19 BY MR. SCHUMB:

20 Q. I think you said that there were four times  
21 that you played the game with him?

22 A. Yes.

23 Q. What times, on which occasions did he give you  
24 the liquid?

25 MS. FILO: Objection, Your Honor, asked and  
26 answered.

27 THE COURT: Sustained.

28 \\\

1 BY MR. SCHUMB:

2 Q. Do you recall that on the second time when he  
3 gave you the liquid that, um, you spit it out because  
4 you didn't like it?

5 MS. FILO: Objection, Your Honor, asked and  
6 answered.

7 THE COURT: Sustained.

8 MR. SCHUMB: All right.

9 BY MR. SCHUMB:

10 Q. Um, do you recall that the liquid had a taste  
11 to it, the liquid that you spit out?

12 MS. FILO: Objection, Your Honor, asked and  
13 answered.

14 THE COURT: Sustained.

15 BY MR. SCHUMB:

16 Q. Do you recall that the liquid tasted like  
17 juice?

18 MS. FILO: Objection, Your Honor, asked and  
19 answered.

20 THE COURT: Sustained.

21 BY MR. SCHUMB:

22 Q. Um, do you recall telling, um, the police  
23 officer that the liquid tasted like juice?

24 MS. FILO: Objection, Your Honor, hearsay.  
25 Do you have a page and line reference?

26 MR. SCHUMB: Well, I think we went through  
27 when I objected.

28 THE COURT: We have to see what the witness'

1 answer is. Could I have the question asked again  
2 please.

3 MR. SCHUMB: Sure.

4 BY MR. SCHUMB:

5 Q. Do you recall telling the police officer that  
6 interviewed you that the liquid tasted like juice?

7 A. No.

8 Q. Um, now, at any time did Mr. Chandler ever  
9 tell you not to tell anybody about the game you were  
10 playing with him?

11 A. No.

12 MR. SCHUMB: Um, just confer for a second,  
13 Your Honor?

14 THE COURT: Sure.

15 MR. SCHUMB: Nothing further, Your Honor.

16 Thank you very much, Ms. A.

17 THE COURT: Do you have any redirect?

18 MS. FILO: Yes, Your Honor, thank you.

19 REDIRECT EXAMINATION

20 BY MS. FILO:

21 Q. Ms. A., I got a little bit confused yesterday  
22 and I'm hoping you can, um, just make it, uh, clear for  
23 me, okay?

24 MR. SCHUMB: Objection, Your Honor, counseling  
25 the witness.

26 THE COURT: Overruled. What's your next  
27 question please?

28 MS. FILO: Thank you.

1 BY MS. FILO:

2 Q. Ms. A., you said that you think you said that  
3 you played the game with the whole class present one  
4 time; is that correct?

5 A. Yes.

6 Q. When you played the game in front of the  
7 class, did Mr. Chandler put food in your mouth?

8 A. Yes.

9 Q. When you played the game in front of the whole  
10 class, do you remember what kind of food Mr. Chandler  
11 used?

12 A. No.

13 Q. When you played the game alone with  
14 Mr. Chandler, did Mr. Chandler put food in your mouth?

15 MR. SCHUMB: Objection, asked and answered.

16 THE COURT: Overruled.

17 THE WITNESS: Um, no.

18 BY MS. FILO:

19 Q. How sure are you?

20 MR. SCHUMB: Objection, calls for speculation,  
21 ambiguous.

22 THE COURT: Overruled. Did you understand the  
23 question?

24 THE WITNESS: No.

25 THE COURT: It's okay when you don't  
26 understand. It's okay to say you don't understand.

27 BY MS. FILO:

28 Q. Sometimes -- when I say my name is

1 Ms. Allison, I am one hundred percent sure that that's  
2 my name, right? But I might -- if you ask me what I  
3 had for lunch yesterday, I might say I think I had a  
4 salad, but I'm not really sure. I'm only like 50  
5 percent sure. Does that make sense?

6 A. Yes.

7 Q. Okay. So I just want to know when you are  
8 telling us about whether or not Mr. Chandler used food  
9 on the times that you were alone with him and you say  
10 no, he didn't use food, how sure are you?

11 MR. SCHUMB: Objection.

12 BY MS. FILO:

13 Q. Really sure? Or little bit sure?

14 MR. SCHUMB: Objection, argumentative.

15 THE WITNESS: I'm not really sure.

16 BY MS. FILO:

17 Q. Okay. So is it fair to say that he might have  
18 used food and he might not, you're not a hundred  
19 percent sure?

20 A. Yes.

21 Q. Okay, fair enough. You said that we've  
22 been -- remember you drew the picture yesterday and we  
23 were calling that "the thing"?

24 A. Yes.

25 Q. Okay. I think when I asked you questions  
26 yesterday, I think you told me that, every time you  
27 played the game alone with Mr. Chandler, he put the  
28 thing in your mouth; is that correct?

1 A. Yes.

2 Q. And you also were asked a little bit about,  
3 um, by Mr. Chris about the blindfold. Do you remember  
4 those questions?

5 A. Yes.

6 Q. Okay. Um, who would put the blindfold on, you  
7 or Mr. Chandler?

8 MR. SCHUMB: Objection, asked and answered.

9 THE COURT: Overruled. I had a question about  
10 that myself.

11 THE WITNESS: Me.

12 BY MS. FILO:

13 Q. Did you put it on every time?

14 A. Yes.

15 Q. Okay. Um, when you were sitting in the chair  
16 and Mr. Chandler put the thing in your mouth, did you  
17 have to tilt your head at all in order to get the thing  
18 in your mouth?

19 A. No.

20 Q. Okay. So you could keep your head totally  
21 looking straight ahead; is that correct?

22 A. Yes.

23 Q. I also was a little bit confused about when  
24 you got glasses. Do you remember when you got  
25 glasses? And if you don't remember, that's okay.

26 A. I don't remember.

27 Q. Was it sometime during third grade?

28 A. No.



1 Q. Was it sometime while you were in  
2 Mr. Chandler's class from the beginning of the school  
3 year to the end of the school year?

4 A. End.

5 Q. Okay. Was it while you were in Mr. Chandler's  
6 class or do you not know?

7 A. I don't know.

8 Q. Okay, fair enough. Mr. Chris also asked you,  
9 um, if you told anybody before that you had, that you  
10 touched the blindfold. Do you remember that question?

11 A. No.

12 Q. Okay. Um, other than Mr. Chris, do you  
13 remember whether or not anyone ever asked you that  
14 question?

15 A. No.

16 Q. Okay. So you don't remember anyone ever  
17 asking you that.

18 MR. SCHUMB: Objection, asked and answered.

19 THE COURT: Sustained.

20 THE WITNESS: No.

21 THE COURT: The answer's stricken.

22 MS. FILO: Thank you.

23 BY MS. FILO:

24 Q. Ms. A., Mr. Chris just asked you, um, about  
25 the time that you talked to the police. Do you  
26 remember that question?

27 A. Yes.

28 Q. And he asked you, um, whether or not you told

1 the police that you had talked to your cousin. Do you  
2 remember that question?  
3 A. Yes.  
4 Q. And you have been real clear here I think that  
5 you did talk to your cousin, right?  
6 A. Yes.  
7 Q. And you talked to your cousin before you  
8 talked to the police, correct?  
9 A. Yes.  
10 Q. If you told the policeman that you did not  
11 talk to your cousin, would that have been incorrect?  
12 A. Yes.  
13 Q. Okay. Um, so that's something you would  
14 change if that's what it said?  
15 A. Yes.  
16 Q. Because that's not right.  
17 A. Yes.  
18 Q. Were you trying to be dishonest?  
19 A. No.  
20 Q. Were you trying to tell a lie?  
21 A. No.  
22 Q. So you just said something wrong.  
23 A. Yeah.  
24 Q. Okay. I also had just a few questions about  
25 that time that you were on your hands and knees, okay?  
26 A. Okay.  
27 Q. Ms. A., did you get on your hands and knees  
28 before or after Mr. Chandler got the ball? And if you

1 don't remember, that's okay. I just need to know which  
2 one it is.

3 A. I don't remember.

4 Q. Okay. Did you see him pick up a ball?

5 A. No.

6 Q. How do you know that Mr. Chandler had the  
7 ball?

8 A. I felt the ball.

9 Q. You felt the ball, okay. So you said that it  
10 was a ball and it came from the red bucket, right?

11 A. Yes.

12 Q. How do you know it came from the red bucket?

13 A. Because I felt the ball.

14 Q. Was -- you felt the ball? So you said that's  
15 where the ball came from, but you didn't see  
16 Mr. Chandler get it from there.

17 A. Yes.

18 Q. Is that correct?

19 A. Yes.

20 Q. Okay. So are you just guessing that that's  
21 where the ball came from?

22 A. Um, I think.

23 Q. You think?

24 A. (Witness nods head.)

25 Q. Tell me why you think that.

26 A. Because all of the balls are there.

27 Q. Okay, I understand. So that's where the balls  
28 are stored?

1 A. Yes.  
2 Q. So you didn't see him actually take the ball  
3 out of the bucket.  
4 A. Yes.  
5 Q. Is that correct?  
6 A. Yes.  
7 Q. But you felt a ball behind you.  
8 A. (Nods head.)  
9 Q. You said that Mr. Chandler had his hands on  
10 your ankles?  
11 A. Yes.  
12 Q. How long were his hands on your ankles? Could  
13 you tell?  
14 A. No.  
15 Q. Was it a short time or a long time? Or  
16 something in between?  
17 A. A long time.  
18 Q. Okay.  
19 A. A short time.  
20 Q. Okay. So, um, and were his hands on your  
21 ankles as soon as you got down on your hands and knees  
22 kind of at the beginning?  
23 A. Yes.  
24 Q. Okay. And he said stay there?  
25 A. Yes.  
26 Q. Okay. Ms. A., did you ever see anything  
27 around you or Mr. Chandler where this yellow water  
28 stuff could have come from?

1 MR. SCHUMB: Beyond the scope of -- objection,  
2 beyond the scope of cross.

3 THE WITNESS: No.

4 THE COURT: Overruled. I'll allow the answer  
5 to stand.

6 MS. FILO: All right, thank you very much,  
7 Ms. A., I think that's all the questions that I have.

8 THE COURT: Recross?

9 RECCROSS EXAMINATION

10 BY MR. SCHUMB:

11 Q. Um, Ms. A., have you talked to anybody about  
12 Mr. Chandler since we testified yesterday?

13 A. Yes.

14 Q. Who did you talk to?

15 A. My other big cousin.

16 Q. Your other big cousin?

17 MS. FILO: Objection, Your Honor.

18 BY MR. SCHUMB:

19 Q. What's her name?

20 THE COURT: Sustained.

21 MR. SCHUMB: Well, Your Honor, I believe --

22 BY MR. SCHUMB:

23 Q. Didn't the judge tell you not to talk to  
24 anybody?

25 MS. FILO: Objection, Your Honor. That was  
26 not the court's instruction.

27 MR. SCHUMB: If I may finish my question?

28 THE COURT: It's beyond the scope of redirect

1 and, um --

2 MR. SCHUMB: I'm trying to inquire whether  
3 there may have been a violation.

4 THE COURT: It's also discovery.

5 MR. SCHUMB: I think --

6 THE COURT: If the court has a concern, I'll  
7 pursue that line of inquiry. Thank you.

8 MR. SCHUMB: Thank you.

9 BY MR. SCHUMB:

10 Q. Um, the, um, did you ever see the ball on  
11 Mr. Chandler's hands?

12 A. No.

13 MR. SCHUMB: Um, now, the picture -- can I see  
14 Exhibit, I think it's 2, Your Honor.

15 BY MR. SCHUMB:

16 Q. Now, this drawing that you made yesterday, do  
17 you remember that?

18 A. Yes.

19 Q. Exhibit 3 I'm showing the witness. Um, and  
20 you said you saw that there underneath your blindfold?

21 A. Yes.

22 Q. Okay. And, um, did you see it when  
23 Mr. Chandler was, had the thing in your mouth or was  
24 the thing not in your mouth?

25 MS. FILO: Objection, asked and answered and  
26 beyond the scope of redirect.

27 THE COURT: Sustained.

28 \\\

1 BY MR. SCHUMB:

2 Q. Um, did -- on what ground, Judge? Both?

3 THE COURT: Yes.

4 MR. SCHUMB: Um, well, Your Honor, there were  
5 questions about the blindfold.

6 THE COURT: Well, counsel, the part calling a  
7 witness performs direct examination. And cross  
8 examination is restricted to those subjects. Redirect  
9 clears up any holes, and recross addresses itself to  
10 that. We can't allow redirect or recross to go over  
11 the same ground. It's extraordinarily time consuming.  
12 That's why the rules are against it.

13 MR. SCHUMB: I just have two questions.

14 THE COURT: If you want to call her as your  
15 own witness and I can get an offer of proof, yes. Why  
16 don't you finish your recross and we'll take up the  
17 issue of anything that wasn't covered in redirect.

18 MR. SCHUMB: All right.

19 BY MR. SCHUMB:

20 Q. Ms. A., did you talk to your cousin last night  
21 about your testimony?

22 MS. FILO: Objection, beyond the scope of  
23 redirect and discovery.

24 THE COURT: Sustained.

25 MR. SCHUMB: Thank you. Thank you, Ms. A.

26 EXAMINATION

27 BY THE COURT:

28 Q. Um, Ms. A., I have a question. I heard you

1 say, and I think because I wrote it down, I think I  
2 heard you say that a boy named Kevin played the game  
3 and that you looked in the room and you looked in the  
4 room and saw Kevin and Mr. Chandler and Kevin was  
5 trying to guess what that was. Did I hear you right?  
6 A. Yes.  
7 Q. Was that in front of the whole class or not in  
8 front of the whole class?  
9 A. Not in front of the whole class.  
10 Q. I know you saw Mr. Chandler and Kevin. Did  
11 you see anybody else in the classroom?  
12 A. No.  
13 Q. Um, was Kevin standing up? Sitting down? Or  
14 lying down? Or what?  
15 A. Sitting down.  
16 Q. And was Mr. Chandler sitting up? Standing?  
17 Or lying? Or what?  
18 A. Standing.  
19 Q. Okay. How do you know they were playing the  
20 game?  
21 A. Because I was there.  
22 Q. Because?  
23 A. I was inside the room.  
24 Q. What did you see?  
25 A. Um, just gave him, um, candy and guess what it  
26 was.  
27 Q. Okay. Did you see anything else?  
28 A. No.



1 THE COURT: All right, thank you.

2 Um, Ms. Filo, do you have any questions of  
3 Ms. A., just based on the questions that I just asked?

4 MS. FILO: Just one.

5 REDIRECT EXAMINATION

6 BY MS. FILO:

7 Q. Ms. A., was Kevin the boy that played the game  
8 with you when you did play it in front of the whole  
9 class?

10 A. No.

11 MS. FILO: Okay, thank you.

12 THE COURT: Um, Mr. Schumb, do you have any  
13 questions of Ms. A., based on the questions that I just  
14 asked?

15 MR. SCHUMB: No, Your Honor.

16 THE COURT: All right. Now, Mr. Schumb, do  
17 you wish to call Ms. A. out of order as your own  
18 witness?

19 MR. SCHUMB: Yes, Your Honor.

20 THE COURT: May I have an offer of proof? Go  
21 ahead.

22 MR. SCHUMB: I just want to ask questions  
23 about Exhibit 3 and her perception of what's depicted  
24 in it. We're talking two or three, maybe four  
25 questions.

26 THE COURT: Just a moment.

27 I don't show that it was covered in cross, so  
28 I'll allow it.

1 MR. SCHUMB: Thank you, Your Honor. Just a  
2 few questions.

3 THE COURT: Go ahead, sir.

4 CROSS EXAMINATION

5 BY MR. SCHUMB:

6 Q. Ms. A., in looking at Exhibit 3, um, I had a  
7 question for you. When you say you saw what's depicted  
8 in Exhibit 2, um, was the thing being put in your  
9 mouth?

10 A. Yes.

11 Q. Okay. So that when it was in your mouth, you  
12 were able to look underneath your blindfold and see  
13 what's depicted in Exhibit 3?

14 A. Yes.

15 Q. Okay. Um, and about how long were you able to  
16 look out of the bottom of the blindfold? If you can  
17 recall.

18 A. I don't know.

19 MR. SCHUMB: Okay. You don't remember? Thank  
20 you.

21 Thank you, Your Honor.

22 THE COURT: All right. Ms. Filo, do you have  
23 any questions of Ms. A.?

24 MS. FILO: No. Thank you.

25 THE COURT: Is Ms. A. excused or would either  
26 side like her to remain on phone standby?

27 MR. SCHUMB: Excused, Your Honor.

28 MS. FILO: Excused.

1 THE COURT: Ms. A., thank you very much for  
2 coming in. I appreciate your help. You're free to  
3 go. Thank you very much. Bye bye.  
4 MS. FILO: Thank you, Your Honor. The People  
5 call officer Russ Chubon.  
6 THE COURT: All right.  
7 MR. SCHUMB: May we take a quick stretch break  
8 before we start?  
9 THE COURT: Yes.  
10 (A recess is taken.)  
11 THE COURT: Thank you. Please call your next  
12 witness.  
13 MS. FILO: Thank you, Your Honor. The People  
14 call officer Russ Chubon.  
15 RUSSELL CHUBON:  
16 COURT CLERK: Do you solemnly state under  
17 penalty of perjury that the evidence you shall give in  
18 this matter shall be the truth, the whole truth, and  
19 nothing but the truth?  
20 THE WITNESS: I do. Thank you. Please have a  
21 seat.  
22 Would you please state and spell your full  
23 name for the record.  
24 THE WITNESS: Russell Chubon, R-U-S-S-E-L-L,  
25 C-H-U-B-O-N.  
26 THE COURT: Thank you. Go ahead please.  
27 MS. FILO: Thank you, Your Honor.  
28 \\\

DIRECT EXAMINATION

BY MS. FILO:

Q. Um, Mr. Chubon, are you a police officer with the City of San Jose?

A. Yes, I am.

Q. How long have you been employed in that capacity?

A. Um, for the City of San Jose, 11 years.

Q. What's your current assignment within the police department?

A. I'm assigned as a detective in the sexual assault unit.

Q. Were you working in that capacity on or about January 9th, 2012, this year?

A. Yes.

Q. Were you attached to an investigation occurring at O.B. Whaeley Elementary School in the City of San Jose?

A. Yes.

Q. Um, were you given the specific assignment to photograph the classroom, Classroom Number 1?

A. Yes.

Q. And do you see a large photograph which I think is Exhibit, Defense Exhibit B and another on the ground, Defense Exhibit A? Did you take both of those pictures?

A. I did.

Q. Did you also, um, endeavor to collect some

1 chairs from the classroom?

2 A. I did.

3 Q. What did you collect?

4 A. I collected two chairs that were, have  
5 plastic, um, seats with a cloth cover on rollers.

6 Q. Is one of those chairs depicted in defense  
7 Exhibit B?

8 A. It is.

9 Q. And is that the one that is -- it's the only  
10 blue chair depicted in Exhibit B. Is that accurate?

11 A. Correct. It's located at the desk.

12 Q. Where -- and I'm going to put up, if I may,  
13 um, Defense Exhibit A. Where was the other blue chair  
14 that you collected?

15 A. It was to the left of the photograph. There  
16 was a U-shaped table. In the center of the table on  
17 the back side near the wall there was a second chair  
18 that had wheels.

19 Q. So on the far left hand side of Defense  
20 Exhibit A, there's what appears to be almost a corner  
21 of a table.

22 A. Correct.

23 Q. Is that this U-shaped table that you're  
24 talking about?

25 A. Yes.

26 Q. And the chair with the wheels was on the, kind  
27 of inside?

28 A. Correct.

1 Q. Was it kind of half a donut, that interior  
2 that was not covered by a table?

3 A. Yes.

4 Q. You collected that chair as well?

5 A. I did.

6 Q. Um, how did you collect them? I mean, they're  
7 awkward items. What did you do with them?

8 A. We transported them to the police department.  
9 Um, they were too large to place as a whole entity  
10 inside a paper bag, so I removed the wheels on the  
11 bottom and I placed each seat in a separate paper bag  
12 and sealed them.

13 Q. What did you do with them once you have sealed  
14 them?

15 A. I secured them in our office and notified the  
16 case officer.

17 Q. And is the case officer sitting to my right,  
18 Officer Sean Pierce?

19 A. Yes.

20 Q. Are they marked in some way as being  
21 associated with the case?

22 A. Yes. I put, I believe that there was an  
23 evidence sticker attached to each one with a case, the  
24 number, and the location where they were located.

25 Q. Thank you. Can you tell me approximately when  
26 you collect those chairs?

27 A. It was in the afternoon of January 10th.

28 MS. FILO: That's all the questions I have,

1 Your Honor.

2 THE COURT: Cross exam please?

3 MR. CLARK: I would just preface I did  
4 subpoena this officer as well, so I want the court to  
5 know I subpoenaed him.

6 THE COURT: Thank you.

7 MR. CLARK: I do have more questions if we  
8 could do it at all once.

9 CROSS AND DIRECT EXAMINATION

10 BY MR. CLARK:

11 Q. Officer, I'm going -- my name is Steve Clark.  
12 I'm one of Mr. Chandler's attorneys. If you don't  
13 understand a question that I ask, please let me know.

14 A. Okay.

15 Q. If you do answer a question, I will assume you  
16 understood my question. Is that fair?

17 A. Yes.

18 Q. In terms of what the district attorney asked  
19 you, you were tasked with a couple things relative to  
20 Mr. Chandler's investigation, correct?

21 A. Correct.

22 Q. One of those was to take photographs. Did you  
23 have a title relative to this investigation, like  
24 finder or something like that?

25 A. I was the designated finder, correct.

26 Q. With does that mean?

27 A. I'm the person who's tasked with the job of  
28 collecting the evidence.

1 Q. Okay. You've acted in that capacity on other  
2 investigations, I take it?

3 A. Yes.

4 Q. Um, and in terms of when you locate items, are  
5 you supposed to take photographs of the item where it's  
6 located?

7 A. You can.

8 Q. I understand you can, but my question is, are  
9 you supposed to do it relative to your understanding of  
10 what a finder does?

11 MS. FILO: Objection, Your Honor, relevance.

12 THE COURT: Offer of proof?

13 MR. CLARK: Well, I have not seen a photograph  
14 of the second chair, and I'm just wondering why there  
15 wasn't a photograph.

16 THE COURT: Well --

17 MR. CLARK: I can ask it this way, if the  
18 court doesn't want that question.

19 BY MR. CLARK:

20 Q. Did you take a photograph in your  
21 investigation that shows the chair, the second chair  
22 which is not the chair behind Mr. Chandler's desk?

23 A. If I could review my photos. There may be an  
24 image of it.

25 Q. Thank you.

26 A. Yes, I see a picture.

27 Q. Thank you. May I approach, Your Honor?

28 THE COURT: Sure.



1 BY MR. CLARK:

2 Q. You were shuffling through photographs. Do  
3 you know how many photographs you took?

4 A. No. In the upper right corner there's the  
5 U-shaped table with the chair I described.

6 Q. Um, let's -- I'm going to represent to you  
7 that I printed every photograph you took. Would you be  
8 able to find it in my bigger photographs, the one that  
9 depicts the chair?

10 A. I could look.

11 It's in this picture right here.

12 MR. CLARK: Thank you. Um, I have the  
13 photograph that the officer just indicated and I'd like  
14 to have that marked as the defendant's next in order.

15 THE COURT: It would be Defendant's C.

16 (Defendant's Exhibit C is marked.)

17 BY MR. CLARK:

18 Q. Officer, um, I've marked Exhibit C, which is a  
19 photograph, that you tell me shows Chair Number 2. Um,  
20 did you take that photograph?

21 A. I did.

22 Q. Can you, um, with a yellow sticky, indicate  
23 where Chair Number 2 is in that photograph.

24 THE COURT: Officer Chubon, would you write  
25 something on that sticky. I don't know, a name or  
26 something. Thank you.

27 BY MR. CLARK:

28 Q. How far were you away from that chair when you

1 took that photograph?

2 A. I believe I was standing in the center of the  
3 room and taking pictures of each angle of the room.

4 Q. Can you tell me how far you were away from the  
5 chair, um, that you just said is depicted on Defense 3,  
6 when you took the photograph?

7 A. I could only guess. Thirty feet?

8 Q. Okay. Was someone directing -- okay. You're  
9 guessing 30 feet. And that's based on what?

10 A. Just an approximation of the size of the room.

11 Q. Okay. Um, you were indicating, I think, um,  
12 that you were taking photographs, you know, sort of in  
13 a circular fashion around the room. Is that fair to  
14 say?

15 A. Correct.

16 Q. Was it just fortuitous that the chair is  
17 depicted in that exhibit or did you deliberately seek  
18 to take a picture of the chair?

19 A. I don't remember.

20 Q. Okay. Was anyone directing you on what to  
21 take pictures of?

22 A. No.

23 Q. Did anyone brief you on the case before you  
24 started taking pictures?

25 A. Yes.

26 Q. Who?

27 A. Detective Pierce.

28 Q. And why did you take the chair?

1 A. I took which chair?

2 Q. Well, that's a good question. Why did you  
3 take the picture in Defense 3?

4 A. I wanted to show a representation of that side  
5 of the room.

6 Q. So it wasn't taken for the purpose of focusing  
7 in on the second chair, correct?

8 A. Correct.

9 Q. Because the picture doesn't do that, does it?

10 A. Correct.

11 Q. Um, in retrospect, do you feel you should have  
12 taken a closer picture of the chair?

13 MS. FILO: Objection, relevance, calls for  
14 speculation.

15 THE COURT: Sustained.

16 BY MR. CLARK:

17 Q. Did the chair that you say is shown in Defense  
18 3, did it have any kind of a tag or a label on it  
19 before you put an evidence tag on it?

20 A. No.

21 Q. Are there are any other photographs, other  
22 than the ones you've scanned, that you just scanned and  
23 told us about where that chair is?

24 A. No.

25 Q. Um, was Officer Pierce present when you were  
26 taking these photographs?

27 A. No.

28 Q. When were you briefed by Officer Pierce in

1 relation to when you took the photographs?  
2 A. Sometime before.  
3 Q. Can you be a little more specific?  
4 A. Within an hour of taking the photographs.  
5 Q. Did he tell you to collect the chairs?  
6 A. Yes.  
7 Q. Did he tell you why?  
8 MS. FILO: Objection, calls for hearsay.  
9 THE COURT: Sustained.  
10 MR. CLARK: I think that that question  
11 actually goes to the methodology used in the collection  
12 of the chair.  
13 THE COURT: It's hearsay.  
14 MR. CLARK: I'm not offering it for the truth  
15 as to why Officer Pierce may have done it, but if he  
16 said I think there may be D.N.A. on that chair, collect  
17 it and then this protocol is used, I think that's a  
18 legitimate question so I'm not offering it for what  
19 Officer Pierce's intention might have been.  
20 THE COURT: You're offering it for the  
21 nonhearsay purpose of explaining this witness'  
22 questions?  
23 MR. CLARK: Yes.  
24 THE COURT: I'll allow it for that limited  
25 purpose.  
26 THE WITNESS: If you could restate your  
27 question.  
28 MR. CLARK: Um, I'm going to have it read

1 back.

2 (The requested record is read.)

3 BY MR. CLARK:

4 Q. Did he tell you why he wanted those chairs  
5 collected?

6 A. Yes.

7 Q. What was the reason?

8 A. The multiple victims mentioned, um, being  
9 assaulted on some chairs. They were described, and I  
10 collected them.

11 Q. And you collected only those chairs that  
12 you've described.

13 A. Correct.

14 Q. Now, did you disassemble the chair? What I  
15 mean by that is, you took the legs off. Where did you  
16 do that?

17 A. I did that in it our office.

18 Q. So you took the whole chair back with you to  
19 San Jose Police Department?

20 A. Correct.

21 Q. Then disassembled it?

22 A. Correct.

23 MR. CLARK: Um, I'm going to show you what's,  
24 um, for purposes of counsel, Bates stamped, "D.N.A.  
25 Exhibit 7,"

26 Ms. Filo, are you with me?

27 MS. FILO: Yep.

28 \\\

1 BY MR. CLARK:

2 Q. I'm going to show you a picture which I  
3 believe perhaps is the chair you collected, see if you  
4 recognize this, which appears from the picture, to be a  
5 blue chair without legs.

6 A. Correct.

7 Q. Does that look familiar?

8 A. It does.

9 Q. There's a protruding label on it, for lack of  
10 a better word; is that correct?

11 A. Yes.

12 Q. Was it on there when you collected it?

13 A. It was.

14 Q. I thought you just told me it didn't have a  
15 label.

16 A. It didn't have an independent label, a unique  
17 label that you had mentioned.

18 Q. So you're saying that you recall seeing this  
19 protruding piece of paper from the chair.

20 A. Yes.

21 Q. When you, um, collected the chairs, did you  
22 bag them?

23 A. I did.

24 Q. And tell me about that. How did you do that?

25 A. I used a clean, large paper bag. I wore  
26 plastic latex gloves, um, put the bag, or, excuse me,  
27 put the chair into the bag and sealed it.

28 Q. Um, and then you booked it into evidence?

1 A. I did.

2 Q. And when did you do that?

3 A. I'd have to refer to my report to get you a  
4 date and time.

5 Q. Okay.

6 A. Um, I'm sorry, I don't have those property  
7 sheets.

8 Q. Okay. Did you prepare a police report in this  
9 case?

10 A. I did.

11 Q. And is there anything relative to what you  
12 did, um, in terms of the chair collection in your  
13 police report?

14 A. I think it's the summary that says it was  
15 collected and booked as evidence.

16 Q. Do you have your police report?

17 A. I do.

18 Q. Where is it in your police report?

19 A. Um, January 10th, second page, lines 20 and  
20 21.

21 Q. There's nothing of a narrative nature  
22 discussing the collection of the chairs, correct? It's  
23 just you collected two chairs.

24 A. There is a narrative that says I collected and  
25 booked into evidence the following items and they're  
26 listed.

27 Q. That's the extent of your police report on  
28 that topic.

1 A. It is.

2 Q. And does that report tell you when you booked  
3 the chair into evidence?

4 A. No. It gives me the date, January 10th, 2012.

5 Q. Um, I'm going to show you a property receipt  
6 from San Jose P.D. If you want to take a look at that,  
7 if this helps when you booked the chair into evidence.

8 A. It would, but it's not, I can't read the, um,  
9 oftentimes there will be a date on the bottom, but I  
10 can't read it.

11 Q. Okay. Did you put a date on it?

12 A. The property clerk did.

13 Q. Have you ever removed the chairs from evidence  
14 from the evidence room?

15 A. I did.

16 Q. What did you do relative to moving the chairs?

17 A. They were several items of evidence. Um, the  
18 chairs, specifically, were, for a chain of custody,  
19 they were booked into evidence with the property  
20 clerk. Um, I believe at the bottom of that report  
21 there should be a date and time. Then I removed them  
22 and then I secured them in our locked office.

23 Q. Okay. From point A, which is when the  
24 property clerk booked it, to the point that you moved  
25 it to the San Jose P.D. evidence locker, did you make a  
26 note of that anywhere?

27 A. I believe on the back of the property report  
28 there will be a note that says that it was turned into



1 my custody.

2 Q. And that you then took a further step and  
3 booked it into the police department?

4 A. It's the same.

5 Q. After that. That should be part of the  
6 booking form, correct?

7 A. It should be.

8 Q. Okay. And if it's not there, would that  
9 concern you?

10 A. It wouldn't concern me because that would be  
11 something that the property clerk would fill out.

12 Q. Not a concern to you, though.

13 A. Well, I don't know what's there or isn't so I  
14 don't know.

15 Q. All right. Um, did you ever, after that  
16 point, do anything, remove the chair from evidence?

17 A. Yes. I secured it into our locked office.

18 Q. I'm sorry. Now the chairs are in your locked,  
19 into the San Jose P.D. locked office. Did you ever  
20 take the chairs out of the locked office?

21 A. No.

22 Q. Have you ever handled the chairs since that  
23 time?

24 A. No.

25 Q. Now, you also took a jacket into evidence,  
26 correct?

27 A. Yes.

28 Q. And that would be page 2 of 2 of your report?

1 A. Correct.

2 Q. Okay. And why did you take the jacket into  
3 evidence?

4 A. Um, one of the victims had reported that there  
5 was, it was a jacket she was wearing during an assault.

6 Q. Um, and you brought it in to see if there was  
7 any forensic evidence on the jacket, correct?

8 A. I collected it simply to seize that piece of  
9 evidence.

10 Q. Why?

11 A. The victim had said that during her assault or  
12 during her --

13 Q. Let me ask. I don't mean to interrupt you,  
14 but did the victim talk to you, this so-called victim  
15 that you just said? Or you're hearing this from  
16 another person?

17 A. The victim's mother told me.

18 Q. Okay. I didn't mean to interrupt you. Go  
19 ahead.

20 A. It was -- this jacket, uh, was in the October  
21 original incident. It was now January, so the jacket  
22 was collected to demonstrate that that was the jacket  
23 that the child was wearing.

24 Q. Was it collected to see if there was any  
25 forensic value to the jacket, other than it was the  
26 jacket that the child was wearing?

27 A. The mother indicated the jacket had been  
28 washed several times.

1 Q. That's not my question. Why did you collect  
2 the jacket?

3 A. Several reasons. The victim said to her  
4 mother and the mother told me that she was wearing that  
5 jacket, and so it was collected. I don't know what the  
6 ultimate intent of the jacket was to be, but it was  
7 collected.

8 Q. And did you collect it for any forensic  
9 purpose?

10 A. I don't know.

11 Q. Okay. Did anybody tell you to collect the  
12 jacket?

13 A. Yes.

14 Q. Who?

15 A. Detective Pierce.

16 Q. And he didn't mention any potential forensic  
17 purpose to you for collecting the jacket.

18 A. No.

19 Q. Did you make any observations about the jacket  
20 when you collected it that you think are relevant from  
21 a forensic point of view based on your being a police  
22 officer?

23 A. With my naked eye, I didn't see anything, uh,  
24 obvious that was out of place with the jacket.

25 Q. In terms of the jacket, how did you preserve  
26 the jacket, if you did?

27 A. Um, same thing, wearing latex gloves. I  
28 placed it in a clean paper bag.

1 Q. Is a paper bag, the use of a paper bag, is  
2 that an appropriate protocol for San Jose P.D. D.N.A.  
3 collection?

4 A. It is.

5 Q. I believe Ms. Filo asked you that one of the  
6 chairs you collected is behind the desk, um, is that  
7 correct, the teacher's desk, that you looked at the  
8 larger photo of your photos?

9 A. Yes, the teacher's desk.

10 Q. Did that chair have any kind of a protruding  
11 label on it?

12 A. It did.

13 Q. So what I showed you in the D.N.A. report with  
14 this label, is that the chair that you collected from  
15 behind the teacher's desk?

16 A. I don't know if this chair is the one behind  
17 the teacher's desk or the teacher's U-shaped desk. I  
18 don't know.

19 Q. This one appears to have a label on it. So  
20 that doesn't refresh your recollection as to which  
21 chair this may have been?

22 A. I know both of them had a label or labels that  
23 said that, basically, cleaning instructions, something  
24 possibly about not removing. And that was it. There  
25 was no serial number. It was just a generic label.

26 Q. Do you have a photograph with you that shows  
27 one of these chairs with a label on it?

28 A. No.

1 Q. Um, is there any reason why not?

2 A. I didn't take a picture.

3 Q. And this was to be collected based on your  
4 discussion with Officer Pierce for forensic purposes to  
5 be used later?

6 MS. FILO: Objection, asked and answered.

7 THE COURT: Sustained.

8 BY MR. CLARK:

9 Q. Um, I want to ask you some questions about the  
10 photograph that you took, that you took that's, um,  
11 Defense Exhibit B. Do you recognize that photograph?

12 A. I do.

13 Q. Did you take it?

14 A. I did.

15 Q. Does it accurately depict what you observed  
16 that day in the classroom?

17 A. It does.

18 Q. Um, what type of floor is that that's shown in  
19 Exhibit A?

20 A. In that photograph, it's a very, um, low cut  
21 carpet.

22 Q. And there's a door behind, for lack of a  
23 better word, the teacher's desk. Do you see that door?

24 A. I do.

25 Q. And in a couple photographs you appeared to  
26 take pictures of that door; is that correct?

27 A. Yes.

28 Q. Why?

1 MS. FILO: Objection, Your Honor, relevance.  
2 THE COURT: Offer of proof?  
3 BY MR. CLARK:  
4 Q. Let me ask this way: Did you ever test that  
5 door to see if it locked?  
6 A. I did.  
7 Q. Does it lock?  
8 A. I don't remember if it locks, but it was  
9 unlocked.  
10 Q. Um, do you know if there's a lock on the door?  
11 A. I don't remember.  
12 Q. And you tested it to see if it was unlocked.  
13 Why?  
14 A. Just to see what was on the other side of the  
15 door.  
16 Q. What was on the other side?  
17 A. Another classroom.  
18 Q. And, um, did you observe anything about the  
19 other classroom when you looked in there?  
20 A. It was a similar design to that classroom.  
21 Q. Did it appear to be used as a classroom by  
22 another teacher?  
23 A. It was.  
24 Q. And you don't know whether that door locks or  
25 not?  
26 A. I don't remember.  
27 Q. Did you take a closeup of the lock?  
28 A. If I could look at my photographs.

1 Q. Sure.

2 MS. FILO: Your Honor, the People are willing  
3 to stipulate that the door does not have a lock.

4 THE COURT: Is the stipulation accepted?

5 MR. CLARK: Yes.

6 THE COURT: All right, I'll note that. Please  
7 ask your next question.

8 BY MR. CLARK:

9 Q. Officer, um, you briefed, or, you were part of  
10 a team that did something called an A.L.S. test,  
11 correct?

12 A. Yes.

13 Q. What is that?

14 A. It uses an alternate light source camera to  
15 look for items which illuminate in darkness.

16 Q. What type of items?

17 A. It could be several things.

18 Q. Can you give us a few examples.

19 A. It could be, um, blood. It could be, um,  
20 light-colored clothing, um, chalk, paint. Lots of  
21 items will appear brighter with the florescence of the  
22 lights.

23 Q. What about secreted semen?

24 A. It could observe that as well.

25 Q. Okay. Um, did you, um, request to have the  
26 A.L.S. lights used to detect whether there was any  
27 secreted semen in the classroom?

28 A. I did.

1 Q. Why?

2 MS. FILO: Objection, relevance.

3 THE COURT: Offer of proof please?

4 MR. CLARK: Many witnesses -- I believe the  
5 People proffered evidence that Mr. Chandler potentially  
6 could have secreted semen in the classroom and, in the  
7 absence of that, I think it's highly relevant.

8 MS. FILO: The absence of it is a fact. Why  
9 the officer used the device or not is not relevant. I  
10 mean, if it's not there, it's not there.

11 MR. CLARK: Do you want to stipulate that the  
12 A.L.S. detection in this case was negative?

13 MS. FILO: I think that would be the witness'  
14 testimony.

15 MR. CLARK: Do you want to stipulate to it?  
16 That's my question. Otherwise, I'm going to ask more  
17 questions.

18 MS. FILO: Sure.

19 THE COURT: All right, I'll note the  
20 stipulation.

21 BY MR. CLARK:

22 Q. And, um, you instructed the team as to where  
23 to look, correct?

24 A. Yes.

25 Q. And that was based on your briefing with  
26 Officer Pierce.

27 A. Correct.

28 MR. CLARK: If I may have a moment, Your



1 Honor?

2 THE COURT: Of course.

3 BY MR. CLARK:

4 Q. Um, did you make any notes of your collection  
5 of these evidence items, other than what's in the  
6 police report?

7 MS. FILO: Objection, discovery.

8 THE COURT: Sustained.

9 BY MR. CLARK:

10 Q. Do you have any other police reports about  
11 your collection of the evidence, other than your  
12 two-page report?

13 MS. FILO: Objection, discovery.

14 THE COURT: Sustained.

15 BY MR. CLARK:

16 Q. Are you satisfied with your police report  
17 relative to your, um, collection of the evidence in  
18 this case?

19 MS. FILO: Objection, relevance.

20 THE COURT: Overruled.

21 THE WITNESS: Yes.

22 BY MR. CLARK:

23 Q. Officer, would you, um, go through your  
24 photographs that you had previously looked at and show  
25 me, if you have any photographs, of a blue chair that  
26 you seized that has the tag on it, the fabric tag as  
27 you've described it.

28 A. There are none.

1 Q. Are there pictures of the chair that do not  
2 have a tag on it?

3 A. Yes.

4 Q. Did you remove the tag?

5 A. No.

6 Q. How do we know that you're talking about the  
7 same chair?

8 A. It's the same chair I collected and booked  
9 into the bag.

10 Q. The picture I showed you from the D.N.A. lab  
11 has a tag on it, but you don't see one on your  
12 photographs. You're pretty confident that you got the  
13 same chair?

14 A. Yes.

15 MR. CLARK: Nothing further.

16 THE COURT: Redirect?

17 MS. FILO: Thank you.

18 REDIRECT AND CROSS EXAMINATION

19 BY MS. FILO:

20 Q. Just one question, Officer Chubon. Did you  
21 have any idea of the evidentiary value that would  
22 ultimately come of the chairs that you collected on  
23 those days?

24 A. No.

25 Q. Were they of any, um, greater interest to you  
26 than anything else in the classroom that day?

27 A. No.

28 MS. FILO: Thank you. Nothing further.

RECROSS EXAMINATION

BY MR. CLARK:

Q. What is your job as a police officer?

MS. FILO: Objection, vague.

THE COURT: Sustained.

BY MR. CLARK:

Q. You said you had no idea what potential evidentiary value these chairs had?

MS. FILO: That wasn't the question.

MR. CLARK: What was the question?

THE COURT: Just a moment.

Did you understand the question?

THE WITNESS: I did not.

THE COURT: Could you ask it again please.

MR. CLARK: Um, could I have Ms. Filo's question and answer read back.

(The requested record is read.)

BY MR. CLARK:

Q. Do you stand by that answer?

A. That I ultimately knew about, correct.

Q. My first question is, do you stand by the answer, the question and answer you just heard? Do you stand by it?

A. Yes.

MR. CLARK: I have nothing further.

THE COURT: All right. I have no questions of Officer Chubon. Is this witness excused or would either side like him to remain on phone standby?

1 MS. FILO: Excused, Your Honor.  
2 THE COURT: Excused?  
3 MR. CLARK: Yes.  
4 MS. FILO: The People call Kristin Cardosa.  
5 THE COURT: Yes. Thank you.  
6 MR. CLARK: Your Honor, I would ask that my  
7 exhibit be admitted.  
8 THE COURT: There's a motion, um, to introduce  
9 Defendant's C; is that correct?  
10 MR. CLARK: Yes.  
11 THE COURT: Is there an objection.  
12 MS. FILO: No, Your Honor.  
13 THE COURT: C is admitted. Thank you.  
14 (Defendant's Exhibit C is admitted.)  
15 THE COURT: Please step forward please.  
16 COURT CLERK: Raise your right hand please.  
17 KRISTIN CARDOSA:  
18 COURT CLERK: Do you solemnly state under  
19 penalty of perjury that the evidence you shall give in  
20 this matter shall be the truth, the whole truth, and  
21 nothing but the truth?  
22 THE WITNESS: I do.  
23 COURT CLERK: Thank you. Please have a seat.  
24 Would you please state and spell your full  
25 name for the record.  
26 THE WITNESS: Kristin Cardosa, K-R-I-S-T-I-N,  
27 C-A-R-D-O-S-A.  
28 THE COURT: Thank you. Go ahead please.

1 MS. FILO: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MS. FILO:

4 Q. Ms. Cardoso, how are you presently employed?

5 A. I'm currently employed as a criminalist at the  
6 Santa Clara County District Attorney's Crime  
7 Laboratory.

8 Q. How long have you been employed by the crime  
9 lab?

10 A. I've been a criminalist there about four and a  
11 half years.

12 Q. What's your present assignment within the  
13 crime lab?

14 A. I work in the forensic biology unit, and I'm a  
15 D.N.A. analyst.

16 Q. How long have you been a D.N.A. analyst within  
17 the Santa Clara County Crime Lab?

18 A. For the four and a half years.

19 Q. That's been your only assignment within the  
20 lab?

21 A. Before that I worked as a property technician  
22 before I was a criminalist.

23 Q. What training and experience do you have to  
24 hold that position?

25 A. I have a Bachelor of Science in biology from  
26 Santa Clara University. And we went through an  
27 extensive in-house training program within the unit  
28 once we were hired.

1 MS. FILO: Um, Your Honor, at this time, the  
2 People would offer Ms. Cardoso as an expert in the  
3 detection and processing of D.N.A. material collected  
4 from items of evidence submitted to the Santa Clara  
5 County Crime Lab.

6 THE COURT: Is there any voir dire on the  
7 witness' qualifications.

8 MR. CLARK: I'll ask a few questions, Your  
9 Honor.

10 THE COURT: Go ahead.

11 VOIR DIRE EXAMINATION

12 BY MR. CLARK:

13 Q. Ms. Cardoso, do you have any -- can you  
14 elaborate a little bit more on your background in terms  
15 of your training in terms of D.N.A. analysis?

16 A. Sure. Um, we do a training program first to  
17 do for screening for biological material, biological  
18 fluids so we screen, we learn how to screen for all the  
19 different types of material that we'll be looking for.

20 Q. We'll take it one at a time. When did you  
21 receive that training?

22 A. When I was first hired as a criminalist in, I  
23 believe it was December of 2007.

24 Q. How long was the training?

25 A. I believe I completed the screening and D.N.A.  
26 training in approximately nine months.

27 Q. Who taught it?

28 A. Our supervisor is primarily responsible for

1 our training program and then we can go to different  
2 experienced analysts for different sections throughout  
3 the process.

4 Q. So it was an in-house training.

5 A. Yes.

6 Q. All right. We talked about that in 2007. Can  
7 you -- I didn't mean to interrupt you, but I'll break  
8 it down.

9 A. I started in 2007 when I was first hired. And  
10 then I completed it within about nine months. And I  
11 became qualified as an analyst to do case work after  
12 that.

13 Q. When you say you "became qualified," what does  
14 that mean?

15 A. We take an in-house competency test that  
16 proves we have successfully completed our training and  
17 are qualified to do the job.

18 Q. Are you certified by, beyond your in-house  
19 training certification? Do you have any other  
20 certifications?

21 A. I do have a certification, but we do take  
22 exterior proficient tests every six months.

23 Q. I guess my question was, are you certified by  
24 any other entity besides the in-house certification you  
25 described?

26 A. No.

27 Q. Have you sought certification from any other  
28 outside entity, other than the in-house?

1 MS. FILO: Objection, Your Honor.

2 THE WITNESS: No.

3 THE COURT: Overruled. I'll let the answer  
4 stand.

5 BY MR. CLARK:

6 Q. Um, you also talked about you received have  
7 you received training, other than in-house at the Santa  
8 Clara Crime Lab relative to D.N.A. analysis.

9 A. Yes.

10 Q. Can you tell us about that, tell me about  
11 that.

12 A. Yes. We go --

13 Q. You keep saying "we." If you don't mind, just  
14 tell me just specifically as to you.

15 A. Yes. I refer to our unit because we have the  
16 same standards. I have gone to multiple different  
17 classes held by different agencies. The California  
18 Criminalistics Institute hold different classes that I  
19 have been a part of. And then I go to other  
20 professional conferences that also hold D.N.A. training  
21 sessions.

22 Q. Okay. Could you briefly summarize the outside  
23 training you received, specifically where you took it  
24 and how long and when.

25 A. Most of that will have to be in my C.V. I  
26 don't know off the top of my head what dates.

27 Q. Did you bring your C.V. with you?

28 A. I have a copy, correct.



1 Q. Can I just take a quick look at it?

2 A. That is an older copy I believe. But it has  
3 the prior --

4 Q. There's no question pending, but did you want  
5 to explain your C.V.?

6 A. No. If you want to look at it, you can.

7 Q. You said it's old?

8 A. That is an older version. I'm sorry, I did  
9 not print the newer version, but it has the prior  
10 trainings on it.

11 MR. CLARK: Could I have this C.V. marked as  
12 defense next in order please.

13 THE COURT: Defendant's D.

14 (Defendant's Exhibit D is marked.)

15 THE WITNESS: If you would like me to print  
16 the newer version, I can print that.

17 BY MR. CLARK:

18 Q. We'll probably do that, but just for purposes  
19 of today.

20 A. Okay.

21 Q. This is your C.V. It's an older version, but  
22 that is your C.V. relative to your D.N.A. experience?

23 A. Yes.

24 MR. CLARK: I'm going to ask that that be  
25 moved into evidence and then returned to her if she's  
26 willing to give you a duplicate copy.

27 THE COURT: So you're asking it be moved into  
28 evidence and a newer version be substituted?

1 MR. CLARK: No. She said she could print out  
2 another one.

3 BY MR. CLARK:

4 Q. Let me ask it this way: Would you make your  
5 C.V. available to our office, the one that you --

6 A. Yes. The current updated version can be made  
7 available to you.

8 Q. With respect to your in-house training that  
9 you received, um, you say, do you know how many hours  
10 you spent in in-house training?

11 A. Um, off the top of my head -- hold on one  
12 second.

13 In-house training, we didn't record the exact  
14 amount of hours within the nine months of training, but  
15 the full nine months are full-time training.

16 Q. Have you ever rendered an opinion in court as  
17 an expert?

18 A. Yes.

19 Q. How many times?

20 A. I testified approximately eight times.

21 Q. "Eight"?

22 A. Eight.

23 Q. And were they on the topic of D.N.A. analysis?

24 A. Yes.

25 Q. Were they criminal trials?

26 A. Some were preliminary hearings and some were  
27 criminal trials.

28 Q. Have you ever testified on the topic of D.N.A.

1 analysis, relative to semen?

2 A. I'm not sure. I don't remember exactly which  
3 cases they were.

4 Q. I'm not, case specific I'm not worried about.  
5 But just in the area of semen analysis and attributing  
6 that semen analysis to a particular individual.

7 A. I've done cases including semen analysis, but  
8 I don't recall if I've testified to them.

9 Q. You don't know if you've been qualified as an  
10 expert on that particular topic?

11 A. I don't recall at this point.

12 Q. Do you keep track of when you are qualified as  
13 an expert as part of your resume?

14 A. Yes. The laboratory keeps track of all of our  
15 court appearances so I would be able to go back and  
16 look at the cases to see which ones they were.

17 Q. But nothing off the top of your head right now  
18 would suggest that you qualified in the area of semen  
19 analysis.

20 A. Not that I can recall at this point.

21 MR. CLARK: Submitted.

22 THE COURT: All right, thank you. I will  
23 allow Ms. Cardoso to testify as an expert in the, um,  
24 offered field of detection of processing and materials  
25 that might contain D.N.A. Ask your next question  
26 please.

27 MS. FILO: Thank you, Your Honor.

28 \\\

CONTINUED DIRECT EXAMINATION

BY MS. FILO:

Q. Um, Ms. Cardoso, in connection with your responsibilities at the lab, were you asked to analyze two blue chairs that were, um, given laboratory case number M, as in Mary, 120168?

A. Yes.

Q. And were those also associated with police report, San Jose Police Department Case Number 120090244?

A. Yes.

Q. When an item of evidence -- and I'm talking generally now, not just specific. When an item of evidence comes in, um, do they generally have an evidence tag attached to the item?

A. They have, they at least have our evidence label that the agency fills out attached to them. Sometimes they have additional agency tags that the agent puts on them themselves.

Q. In this particular case, um, two items of evidence were submitted for analysis that were blue plastic chairs; is that correct?

A. That is correct.

Q. Was the entire chair submitted to you or just the seats of the chairs?

A. Just the seat of the chair. There were no legs.

Q. What were you asked to do with respect to

1 those two chairs?

2 A. I was asked to examine the items for the  
3 presence of semen.

4 Q. Did you do that?

5 A. Yes, I did.

6 Q. What did you find?

7 A. Would you like me to go chair by chair?

8 Q. Please.

9 A. Okay. May I refer to my report?

10 Q. If that will refresh your recollection, that  
11 would be great.

12 MR. CLARK: If I may just interject? I just  
13 want to make sure she's brought her entire report with  
14 her.

15 THE WITNESS: I did bring my entire report,  
16 including the note packet.

17 Um, so the first chair which was item SY-01  
18 was, um, I did, I looked at it visually. It was in  
19 dirty condition. Um, I then used an alternate light  
20 source which, um, stains will fluoresce. Multiple  
21 biological stains will fluoresce. It just gives us a  
22 way to start looking and where to start. Um, so I did  
23 find multiple stains that did fluoresce. I then tested  
24 all of those stains with our presumptive test for  
25 semen. And I found, um, one positive yellowish white  
26 crusty fluorescent stain on the underside of the seat  
27 that tested positive with this presumptive test.

28 \\\

1 BY MS. FILO:

2 Q. Tell me what that presumptive test is. What  
3 does that mean?

4 A. It's a chemical test that we first, um, do a  
5 swabbing or a wet dab of the stain. And then we test  
6 that second substrate with, um, a chemical. And if it  
7 turns purple within a certainly time limit, it is  
8 positive.

9 Q. Is there a further way that you can confirm  
10 the presumptive test to ensure that the sample you have  
11 collected is, in fact, semen?

12 A. Yes. I then took a sample of the stain and I  
13 looked at it under a microscope. And I confirmed the  
14 presence of spermatozoa.

15 Q. And that is something you can visualize; is  
16 that correct?

17 A. That is correct.

18 Q. You confirmed spermatozoa on the underside of  
19 the blue plastic chair identified as Evidence Item  
20 Number SY-01 for the purposes of the lab.

21 A. Yes.

22 MR. CLARK: Your Honor, may I just ask one  
23 more question? Does the court want a copy of this  
24 report?

25 THE COURT: No. I can't look at it because  
26 it's not in evidence.

27 MR. CLARK: If you wanted to have it as a  
28 court copy so you know what we are all talking about.

1 THE COURT: I don't think I can.

2 MS. FILO: Judge, I agree with counsel. I  
3 think that may be the easiest way to do it. I did  
4 bring an extra copy, Bates stamped, Lab D.N.A. 1  
5 through 64. And I thought it might be easier to go  
6 ahead and mark this packet for the court so that you  
7 can look at the photographs that are included in it as  
8 opposed to having them marked individually.

9 THE COURT: I'm not allowed to read the file,  
10 absent permission from counsel.

11 Mr. Clark, do I have your permission?

12 MR. CLARK: Yes.

13 THE COURT: Thank you. Ms. Filo?

14 MS. FILO: Yes, Your Honor. And I will submit  
15 that to the court. I don't know if you want to mark it  
16 as -- my thought was to mark it as a single exhibit and  
17 just use the Bates stamped references within the pages.

18 THE COURT: Anything can be marked for  
19 identification.

20 MR. CLARK: Just call it a court exhibit?

21 THE COURT: Yeah, we can call it Court Exhibit  
22 1.

23 (Court's Exhibit 4 is marked.)

24 THE COURT: All right.

25 BY MS. FILO:

26 Q. Ms. Cardoso, I brought an extra copy for you,  
27 too, just so the Bates stamping will be the same, if  
28 that's okay for you?

1 A. That's fine.

2 Q. The copy that I have should be the exact same  
3 as yours.

4 MR. CLARK: Is it okay if I approach while  
5 you're doing that, just to make sure we're all talking  
6 about the same thing.

7 THE COURT: Sure.

8 MS. FILO: I'm just giving the witness a  
9 second copy of my packet that has the Bates stamped  
10 pages that we will then collectively refer to. Is that  
11 acceptable?

12 THE COURT: That's fine.

13 BY MS. FILO:

14 Q. Okay. Ms. Cardoso, you said that the sample  
15 you collected from SY-01 was confirmed to you to be  
16 spermatozoa.

17 A. Yes.

18 Q. How do you go about determining, um, whose  
19 spermatozoa it is?

20 A. Once I do the presumptive testing and  
21 confirmatory testing, I then take the sample to do a  
22 D.N.A. analysis.

23 Q. Okay. Were you provided with a reference  
24 sample from what was purported to be Mr. Chandler?

25 A. Yes. I received, um, items that were paper  
26 cups and, per the submission form from the agency, they  
27 were labeled as two paper cups the suspect drank from.  
28 And the suspect was listed as Craig Richard Chandler.



1 Q. Were you able to develop a reference sample  
2 from those paper cups?

3 A. Yes.

4 Q. When you develop a reference sample, do you,  
5 um, identify specific alleles in order to perform your  
6 comparison.

7 A. Yes. We develop a D.N.A. profile consisting  
8 of alleles.

9 Q. What is that? What does that mean?

10 A. There are certain areas that we look for, um,  
11 in someone's D.N.A. And they are small sections of  
12 D.N.A. that don't code for genes, but they are repeated  
13 sections and the allele, the number that the allele is  
14 how many times it repeats. And you inherit the  
15 different sections from your mother and your father.  
16 And so different people have different amounts of  
17 repeats which is why the numbers are different and the  
18 numbers are the way they are.

19 Q. So you get one number from your mother and one  
20 number from your father for each identified allele  
21 and/or location on the D.N.A. strand; is that correct?

22 A. Yes. So the 15 different locations are loci  
23 and at those different loci there are two different  
24 alleles.

25 Q. And when you said the 15 different loci, is  
26 that sort of the, for lack of a better word, the  
27 standard package that you look at 15 different  
28 locations to find the two alleles at each location for

1 any individual in order to develop a D.N.A. profile?

2 A. Yes. There are 15 locations, plus the 16th is  
3 the gender location.

4 Q. Okay. Were you able to develop that profile  
5 from the cups that were submitted to you as purported  
6 to be belonging to Mr. Chandler?

7 A. Yes. I swabbed the rim of the cup and got the  
8 profile.

9 Q. Did you compare the D.N.A. profile from the,  
10 from what was purported to be Mr. Chandler and compare  
11 that to the profile that you developed from the swab  
12 taken from SY-01?

13 A. Yes, I did.

14 Q. What did you learn?

15 A. Um, my conclusion was that Craig Richard  
16 Chandler is the source of the semen from that item.

17 Q. Did you do the same analysis with respect to  
18 the second chair that you collected?

19 A. I did.

20 Q. I'm sorry, that you analyzed.

21 A. I first virtually examined. It was also in  
22 dirty condition. Again, used an alternate source to  
23 look for staining. There were multiple areas that  
24 fluoresced. Um, I started to then look at the rest of  
25 the stains. And I started to test some with the  
26 presumptive test for semen. And I found that, I found  
27 two yellowish white fluorescent stains on the left side  
28 of the seat of the chair. And then I found three

1 whitish yellow crusty fluorescent stains on the other  
2 side of the back of the chair.

3 Q. How many of those stains did you, um, swab and  
4 actually develop a D.N.A. profile?

5 A. I only swabbed one of those five stains for  
6 D.N.A. analysis.

7 Q. What did you learn after analyzing that sample  
8 for the presence of D.N.A.?

9 A. That Craig Richard Chandler is the source of  
10 the semen from that stain.

11 Q. As well?

12 A. As well.

13 Q. So I want to back up real quick and make sure  
14 that I'm clear. When you looked at SY-01, was there  
15 only, um, one stain that was presumptively positive  
16 for spermatozoa?

17 A. Yes.

18 Q. And when you looked at SY-02, there were five  
19 that were presumptively positive?

20 A. That is correct.

21 Q. But you only tested one of the five.

22 A. For D.N.A. analysis, yes.

23 Q. Okay. Did you do the confirmatory test for  
24 the other four or just for the one on SY-02?

25 A. Just for the one.

26 Q. Why is that?

27 A. Because when I took the sample for D.N.A., we  
28 do the confirmatory test alongside it, so during the

1 D.N.A. extraction process we make our slides, so I  
2 didn't want to consume samples from the other stains  
3 that I didn't need to, I confirmed it on the one I did  
4 the D.N.A. analysis on.

5 Q. So the other four are presumptively positive  
6 for spermatozoa, but you did not develop the D.N.A.  
7 profile for those.

8 A. Yes. They're presumptively positive for  
9 semen, but I did not test them for spermatozoa.

10 Q. Okay. Um, Ms. Cardoso, I'm going to ask you  
11 to look at, in your packet it's D.N.A. 7007. And I'll  
12 reference court and counsel to the same. That page has  
13 what appears to be three photographs, um, of SY-01.

14 A. That's correct.

15 Q. On that photograph, does that photograph  
16 depict the location of the swab that you tested?

17 A. No.

18 Q. Okay. It is, in fact, on page 8; is that  
19 right?

20 A. That is correct.

21 Q. Okay. And, again, there are three  
22 photographs. Um, on the bottom right hand corner of  
23 D.N.A. page 002, there appear to be almost two pinkish  
24 or pink whitish circles on the chair; is that right?

25 A. I believe they're white, but yes. I think  
26 it's the coloring on the page.

27 Q. Sorry. Is that the location from which you,  
28 um, obtained the sample?

1           A.   Yes.   So because it's a hard surface and we  
2           normally do a, um, dabbing, just a blotting of, if it's  
3           a softer surface, with this I had to swab, first to do  
4           the presumptive test, so these smaller, um, the smaller  
5           stain below is where I swabbed for the presumptive  
6           test.   And then the larger circle above it is where I  
7           swabbed for the D.N.A. analysis.

8           Q.   Then I'm going to ask you to look at D.N.A.  
9           page 009.   Is that a picture of Evidence Item SY-02?

10          A.   Yes.

11          Q.   And can you describe for me where it was that  
12          you obtained this sample from which you developed the  
13          D.N.A. profile that you determined to be Craig Richard  
14          Chandler.

15          A.   Yes.   If you look at the larger picture, there  
16          is a small rectangle with the Number 1 label next to  
17          it.   That is then depicted in the larger picture to the  
18          right.   It's a zoomed image of it, so that's where, on  
19          the chair, it was.   And then, if you look at the stain  
20          on the left with the box, the box is the area that I  
21          swabbed for D.N.A. analysis.

22          Q.   Is there -- um, is there a place where the  
23          other four stains are referenced?

24          A.   Yes.   On the next page on page 10.

25          Q.   And the pictures on page 10, do those depict  
26          the four additional locations where there was a  
27          presumptive positive reading for spermatozoa for which  
28          you did not develop the D.N.A. profile?

1           A.   Three of them are on this page. The fourth  
2 one is on the side next to the stain that I swabbed for  
3 D.N.A. analysis. So there are two on page 9 that  
4 tested presumptively positive.

5           Q.   I see.

6           A.   And there are three on page 10.

7           MS. FILO: Thank you, Your Honor. That's all  
8 the questions I have.

9           THE COURT: Cross exam please?

10          MR. CLARK: Yes, Your Honor.

11                           CROSS EXAMINATION

12          BY MR. CLARK:

13          Q.   I have some questions, Ms. Cardoso. If you  
14 need me to clarify something or if I'm not being clear  
15 to you, please let me know, okay?

16          A.   Okay.

17          Q.   You said that there was some type of a form or  
18 a report that suggested like an intake form; is that  
19 correct?

20          A.   That is correct.

21          Q.   Okay. Do you have that with you?

22          A.   It is the original. I believe it's page 1 of  
23 the packet that was submitted.

24          Q.   And this would be the typical way that you  
25 would receive something from San Jose Police  
26 Department.

27          A.   Yes. These are our case-request forms.

28          Q.   Were you apprised in any way of what type of

1 case this case is, in other words, a sexual assault or,  
2 you know, that type of thing?

3 A. Yes. Based on the offense, the 288, I know  
4 what that is.

5 Q. Okay. So you have done other analyses on  
6 sexual assault cases, correct?

7 A. Correct.

8 Q. And so was there anything more specific you  
9 were asked to do relative to this case, other than  
10 analyze the D.N.A.?

11 A. No.

12 Q. Um, do you know whether the, um, have you,  
13 have you analyzed D.N.A. in rape cases?

14 A. Yes.

15 Q. Have you analyzed D.N.A. in oral copulation  
16 cases?

17 A. Yes.

18 Q. How many times?

19 A. I do not know that off the top of my head.

20 Q. More than ten? Less?

21 A. Probably more than a hundred.

22 Q. More than a hundred oral copulation cases?

23 A. Sexual assaults, in general.

24 Q. How about specifically as to oral copulation?

25 A. That's hard to say because we, a lot of times  
26 for sexual assaults, we test for everything because a  
27 lot of times the stories are not, the victims may not  
28 be sure of what happened so we don't know specifically

1 an oral copulation case.

2 Q. So part of what you do is, or maybe I'll ask  
3 it this way: Is part of what you do isolating the  
4 D.N.A. of the person that you think is the perpetrator  
5 from other people's D.N.A. Is that a fair statement?

6 A. Um, we just test for D.N.A. We're not  
7 necessarily trying to isolate.

8 Q. Go ahead. Explain your answer.

9 A. Well, we just test for the biological  
10 materials that we are looking for. And we test for the  
11 D.N.A. And we don't necessarily try to isolate certain  
12 things.

13 Q. Is part of what you have to do in order to  
14 establish that the defendant is the source of the  
15 D.N.A., remove, potentially, other people's D.N.A. so  
16 you know what you're looking at?

17 A. We don't remove their D.N.A.

18 Q. What is the extraction process?

19 A. Extraction is when we add chemicals to the  
20 cells or the biological material. And it breaks open  
21 the cells, so, in theory, it extracts the D.N.A. from  
22 the cells. We don't take out other people's D.N.A. at  
23 that time.

24 Q. Maybe that was not a good question. In this  
25 case, did you find anyone else's D.N.A. besides  
26 Mr. Chandler's?

27 A. No.

28 Q. Um, in other sexual assault cases you've done,



1 have you located other people's D.N.A. besides, let's  
2 just say, for sake of argument, the victim's D.N.A.  
3 along with the defendant's D.N.A.?

4 MS. FILO: Objection, relevance.

5 THE COURT: Offer of proof please?

6 MR. CLARK: Well, I believe the People's  
7 theory that this is an oral copulation case. I think  
8 that's what their theory is. And so I'm trying to find  
9 out is if there's not D.N.A. associated with any other  
10 individual, that is relevant because I would suggest  
11 that that means this isn't an oral copulation case.

12 MS. FILO: The People have not charged any  
13 count of oral copulation.

14 MR. CLARK: I didn't mean to interrupt.  
15 That's where I'm going with it.

16 THE COURT: Well, it's not an element of the  
17 crime. 288 is a lewd and lascivious on the person of a  
18 child for the specific intent of sexual arousal. It's  
19 not an element of the crime. It's not a defense to the  
20 crime. It's not relevant to anybody's credibility.  
21 It's irrelevant. Thank you. Please ask your next  
22 question.

23 BY MR. CLARK:

24 Q. Um, did you find anyone else's D.N.A.  
25 associated with the case?

26 A. No.

27 Q. Um, did you look for anyone else's D.N.A.  
28 associated with the case?

1           A. I was just looking for biological material and  
2 for semen specifically, so, once I obtained those  
3 swabs, that's what I processed for D.N.A.

4           Q. Um, in this case, were there epithelial cells  
5 along with the semen cells?

6           A. When we do an extraction for, um, semen  
7 samples, it's called a differential extraction. So we,  
8 because semen cells are different than any other type  
9 of cell, they're a little bit stronger, we do a first  
10 what I call a digest of the cells and that will break  
11 open any kind of epithelial or blood or other kinds of  
12 cells that contain D.N.A. And then we do separate  
13 those from the next section which becomes the sperm  
14 cell fraction. And we have to add a harsher chemical  
15 to break open sperm cells. So, in that sense, we  
16 separate that out. But in this case, the epithelial  
17 fraction contained the same profile as the sperm cell  
18 fraction.

19           Q. So within the semen D.N.A., you also found  
20 epithelial cells, correct?

21           A. I cannot say that they were actually  
22 epithelial cells, but it was in the fraction that was  
23 not, that was not digested with the semen cells, with  
24 the sperm cells.

25           Q. Was that material associated to Mr. Chandler?

26           A. In the epithelial fraction, yes.

27           Q. What is an epithelial cell?

28           A. An epithelial cell is technically skin cells.

1 We call it that fraction because it can be any cell  
2 other than the sperm cells.

3 Q. Was there anyone else's epithelial cells in  
4 the sample?

5 A. There was no other D.N.A. detected.

6 Q. And do we have epithelial cells in our mouths?

7 A. Yes.

8 Q. We have them on our skin?

9 A. Yes.

10 Q. I take it children have epithelial cells as  
11 well, correct?

12 A. Yes.

13 Q. And you don't need the actual profile of  
14 anyone to see that there were epithelial cells  
15 associated, associated with someone, other than  
16 Mr. Chandler, correct?

17 A. Correct. You would see if there was D.N.A.

18 Q. You could see that there's D.N.A., you don't  
19 know whose it is, but you know it's not Mr. Chandler's,  
20 correct?

21 A. You would be able to see, yes.

22 Q. And you found no other D.N.A. associated with  
23 the samples, correct?

24 MS. FILO: Objection, asked and answered.

25 THE COURT: Sustained.

26 BY MR. CLARK:

27 Q. Um, so you did a presumptive test for the  
28 presence of semen, correct?

1 A. Correct.

2 Q. And is there something called a Christmas tree  
3 test?

4 A. It's a Christmas tree stain. It's what we put  
5 on the slides.

6 Q. Did you do that in this case?

7 A. Yes.

8 Q. Is that indicated in your report?

9 A. Um, it might. One moment.

10 It is not indicated in the actual note packet,  
11 but it is our standard protocol for how we develop  
12 slides. It is in our manuals for procedures.

13 Q. Now, the, um, let's take SY-1 for a minute.  
14 Can you look in your report for that?

15 A. Sure. The report or the actual note packet?

16 Q. Well, I'm calling it the same.

17 A. Okay. Go ahead.

18 Q. Where did you find the semen stain on that  
19 object?

20 A. So on page 2 of this packet, it shows a  
21 picture of the underside of the chair. And it is on  
22 the seat, the underside of the seat portion of the  
23 chair.

24 Q. Okay. So is it possible if someone has semen  
25 on their hand, if they sit in their chair and move  
26 their chair, you could transfer the semen in that way?

27 A. Yes, it's a possibility.

28 Q. Do you think that happened or do you know?

1 A. It is hard to determine based on the pattern  
2 of the stain.

3 Q. Um, within that stain, you found no other  
4 associated D.N.A., correct?

5 A. Correct.

6 Q. Um, when I say, "associated," I mean no other  
7 individual's D.N.A.

8 A. Correct.

9 Q. I want to ask you about your report on page  
10 11. Could you go to that?

11 A. Yes.

12 Q. I'm going to focus you specifically on sample  
13 identifier D-6. Are you with me?

14 A. Yes.

15 Q. Um, you made certain notes in your report. Is  
16 that your handwriting?

17 A. Yes.

18 Q. And you were the only person that worked on  
19 this report, correct?

20 A. Correct.

21 Q. Um, and then in the comment sheet on -- could  
22 you explain this table briefly? What this table means?

23 A. In the comment section?

24 Q. Well, just in general the differential  
25 extraction data sheet.

26 A. Yes. This is our extraction data worksheet.  
27 The Sample identifier is the number we give it  
28 throughout the entire D.N.A. process. In the second

1 column, it's a sample description. It has our case  
2 number and it has the item number. Then next to that,  
3 in the next two columns, it's the recovered volume, so  
4 once we finish the D.N.A. extraction process, we have a  
5 certain volume of the sample. And that is what is  
6 written in those two columns.

7 The E.C. First is the epithelial cell fraction  
8 and SP-1. refers to the sperm cell fraction. And then  
9 the comment section, I wrote the results from my  
10 screening of the microscope slides.

11 Q. Now, within the comment section of this D-6,  
12 could you read what you wrote there? It's a little  
13 difficult for me to read.

14 A. Yes. "Pre" is the predigest.

15 Q. What does that mean? If you can take it kind  
16 of slow.

17 A. It means that we make a slide before we break  
18 open the cells to see what we can find and what we see  
19 on there.

20 Q. If you could walk me through that process.  
21 You actually remove the material and put it on a slide  
22 and then look at it under a microscope?

23 A. Yes. So we have a portion of our sample. And  
24 we take a very, very small amount of the liquid and we  
25 put it onto a slide. And that becomes the slide. And  
26 then the "post" means, after the first initial digest,  
27 that we kind of get rid of the E. cell fraction and get  
28 rid of it. And once we clean it and wash it, we are

1 trying to isolate sperm cells. And then we make a  
2 slide again with a small volume of the sample with  
3 that.

4 Q. Okay. You said, "with the liquid." In this  
5 case was there liquid or was there ...

6 A. We add a liquid in the very beginning to the  
7 swab that I took, and that becomes what we're  
8 manipulating.

9 Q. Um, so in your comment sheet, um, with respect  
10 to D-6, could you read me what the "pre" means.  
11 Explain again what the "pre" means. And explain again  
12 the "pre" means before you do something so you can  
13 better look at the material under a microscope; is that  
14 fair?

15 A. The "pre" means that we try to see what the  
16 sample looks like before we do any kind of, before we  
17 add any chemical to break open or destroy any cells.

18 Q. Okay.

19 A. Do you want me to read it?

20 Q. Yes. Why don't you read your comments and  
21 then we'll talk about them.

22 A. We have a designation as to how much of a  
23 certain thing we may see which is the "plus one." So  
24 "plus one" means few, like a few on the slide.

25 Q. If you wouldn't mind, just read the comment  
26 and then I'll probably have some questions.

27 A. "Plus one SP-1. and possible sperm, zero E.C.  
28 and cellular debris.

1 Q. Let's break it in small pieces. The "plus one  
2 SP-1.," what does that mean.

3 A. So we have a designation for how much of  
4 something we see. And when we are looking for sperm  
5 cells versus epithelial cells, we categorize it.

6 Q. Is it fair to say that plus one is the lowest  
7 on a scale of one to something.

8 A. It's a scale one to four. And, yes, it's the  
9 lowest.

10 Q. And so your observation of the sample was that  
11 it was a plus one spermatozoa, correct?

12 A. Yes. It means I saw a few spermatozoa heads  
13 on the slide.

14 Q. Okay. The word "few" is a relative term. Do  
15 you know how many sperm are in the average ejaculate?

16 A. Not off the top of my head.

17 Q. Do you know a ballpark number?

18 A. Very large. It's a very large number.

19 Q. We are using "large" and "few." Could you do  
20 it more scientifically?

21 A. Don't quote me on it, but it's probably in the  
22 hundreds of thousands.

23 Q. All right. Now, you've used the word that  
24 SP-1 means there's a few sperms observed.

25 A. It's a range between two sperm heads and ten  
26 sperm heads.

27 Q. Okay. Out of what, hundreds of thousands that  
28 would be an ejaculate?



1 A. Yes. But we are sampling a very, very small  
2 portion of a small portion of a stain that I swabbed.

3 Q. Um, then it goes on a scale of plus one to  
4 plus four.

5 A. Yes.

6 Q. How many would be involved in a plus four  
7 stain?

8 A. Plus four.

9 Q. Sample, I'm sorry.

10 A. Is too many to count almost.

11 Q. So is this designation, plus one to plus four,  
12 some kind of a standard quantification or is it  
13 something that is a subjective observation of the  
14 analyst?

15 A. It's a subjective observation of the analyst.  
16 We do have a definition in our procedures as a general  
17 definition of what they mean. But it is subjective  
18 when the analyst looks at the slide.

19 THE COURT: Ladies and gentlemen, this would  
20 be a good time for us take our noontime recess.

21 Ms. Cardoso, we'll see you again at 1:30,  
22 ma'am. We have a class coming in for a mock trial so  
23 why don't you take your stuff with you. If counsel  
24 wants to secure anything because the children will be  
25 using these desks, I suggest that you use the lockers.  
26 Thank you.

27 (A recess is taken.)

28 THE COURT: All right. Ms. Cardoso, thank

1       you. I remind you that you're still under oath.

2               THE WITNESS: Yes.

3               THE COURT: Go ahead please.

4               MR. CLARK: Would the court mind if I took my  
5 jacket off?

6               THE COURT: No. Go ahead.

7 BY MR. CLARK:

8       Q. Ms. Cardoso, between the time we broke for  
9 lunch and right now, did you bring additional materials  
10 with you to court?

11       A. I did.

12       Q. What did you bring?

13       A. I brought an updated version of my  
14 qualifications. And I also brought the section of our  
15 procedure manual that has the gradient for which we  
16 give for the spermatozoa identification.

17               MR. CLARK: Could we have her updated resume  
18 marked as defense marked next in order. And would you  
19 like to withdraw the previous one?

20               THE WITNESS: Sure, we can do that.

21       (Defendant's Exhibit D is marked and admitted.)

22               MR. CLARK: I'd stipulate to withdraw her old  
23 one and put the new one in.

24               THE COURT: Exhibit D is withdrawn and the new  
25 version is substituted for it. It's still  
26 Ms. Cardoso's curriculum vitae. We'll just switch it.

27 BY MR. CLARK:

28       Q. With respect to your, um, updated resume that

1 you brought, you got a lot of course work here and some  
2 other things on that. Is there anything you can point  
3 to relative to your updated resume that talks about  
4 sperm identification and analysis? Where would that be  
5 on your updated resume?

6 THE COURT: Counsel, I don't know this is  
7 proof for what is required. I've already found she's  
8 qualified. An expert witness is virtually anyone who  
9 knows more than the trier of fact. That's me. I don't  
10 know the field.

11 MR. CLARK: I wasn't provided this when I was  
12 asking her those qualifications.

13 THE COURT: Yes, but I don't think it would  
14 materially add to my determination as to whether or not  
15 she's an expert. Particularly, when she's been found  
16 as an expert previously. I don't see a serious  
17 challenge to her qualifications. I'm sure that if you  
18 want to discuss this with Ms. Cardoso outside this  
19 prelim, Ms. Filo could arrange that.

20 MR. CLARK: Submitted. So you're not allowing  
21 me to ask that question.

22 THE COURT: That's correct. I don't think  
23 it's relevant since I already made the determination of  
24 her expert qualification and I don't think it would  
25 materially add to the information that I have.

26 MR. CLARK: Okay.

27 BY MR. CLARK:

28 Q. And you brought a table with you which talks

1 about the quantification, if you will, or the number  
2 rating when you're looking at a sperm slide. And a  
3 plus one through plus four. Is that correct?

4 A. That's correct.

5 Q. And is this a table that's created by the  
6 crime lab or is this -- well, is it created by the  
7 crime lab?

8 A. Yes, this is in our policy and procedure  
9 manual.

10 Q. Would this quantification that's listed here  
11 be consistent, if you know, with industry standards,  
12 for lack of a better word?

13 A. I'm not sure how other labs give their ratings  
14 for their slides.

15 Q. All right. The city of San Francisco may have  
16 a completely different rating system.

17 A. It's possible.

18 Q. You don't know?

19 A. I don't know.

20 Q. So when you have a plus one, the rating that  
21 you brought with us in the table says, indicates only a  
22 minimal or minimum number of spermatozoa two to ten.  
23 Is that how you evaluated the slide in this case.

24 A. Yes.

25 Q. So you found somewhere between two and ten  
26 sperm in that?

27 A. That is correct.

28 Q. Did you make any observations about the sperm

1 themselves? In other words, were they degraded? Were  
2 they broke up in pieces?

3 A. Um, for us to be able to say that they are  
4 clearly spermatozoa, they have to be in good quality  
5 because if they look partially degraded it's harder to  
6 tell that that's what they truly are. So if we are  
7 able to call it sperm, then that means that they're  
8 decent quality.

9 Q. And how do you make the evaluation that it is  
10 sperm just by visual identification?

11 A. Yes. We've been trained and looked at many  
12 different times of spermatozoa, human species, animal  
13 species, and other different types of material we might  
14 see on these slides and they have very distinct,  
15 methodological characteristics.

16 Q. Okay. Um, in that -- follow with me now, if  
17 you don't mind, your page 11 D-6. You indicate a plus  
18 one sperm plus?

19 A. I believe that's an "and" sign.

20 Q. "Possible sperm." What do you mean by that?

21 A. We give that to ones that might be possibly  
22 degraded. We can't for sure say that they are  
23 spermatozoa, but it looks like they might be. But we  
24 can't call them that for sure based on their shape.

25 Q. Okay. Then you have the designation "OEC."  
26 Is that epithelial cells?

27 A. That is correct so it's zero intact epithelial  
28 cells.

1 Q. Say that again.

2 A. Zero intact epithelial cells.

3 Q. And so cellular debris?

4 A. Yeah. There could be other things when you're  
5 viewing slides, little pieces of cells or things that  
6 are degraded that are still on the slide.

7 Q. Now, following that designation, you then go  
8 to the word "post." What do you mean? "Post" what?

9 A. So during the differential extraction, you add  
10 the first chemical and you let it sit in a hot water  
11 lab. And that breaks open regular cells like skin  
12 cells and blood cells and anything, any other type of  
13 cell. And so then we try to remove that portion and  
14 then we wash it and spin it down and we try to create  
15 what we call a sperm pellet because the sperm are not  
16 broken up by the first chemical that we add. So, after  
17 that, once we've washed it, we're hoping to get a clean  
18 sperm pellet to separate the sperm from the original  
19 section. And so then we make a slide of the sperm  
20 pellet.

21 Q. And the purpose of that process is to enhance  
22 your ability to identify sperm; is that correct?

23 A. Yes.

24 Q. And so the normal -- well, "normal" is not a  
25 good word. But you would expect that the pre to post  
26 you would increase from plus, in other words, the sperm  
27 visible would increase. That's the purpose of the  
28 test.

1 A. It's possible, yes.

2 Q. Isn't that the purpose of the test?

3 A. It's not necessarily a test. Because we are  
4 sampling a certain small portion of it, it's hard, I  
5 mean, you're only sampling a small portion of the whole  
6 entire sample. It may vary depending on what you  
7 actually sample. It's not an equally distributed  
8 sample, if you know what I mean.

9 Q. Okay. Let's go to D-7 on that same page.

10 A. Okay.

11 Q. In that one, you indicate a plus two. This is  
12 pre pre, correct?

13 A. Yes.

14 Q. You indicate "plus two." And what does that  
15 quantification mean?

16 A. So, according to our chart, it indicates  
17 spermatozoa in some fields. So fields means fields of  
18 view when you're scanning a slide. So you see a few  
19 here, a few there, a few other. It's not a lot  
20 compared to plus fours, but it's a decent amount.

21 Q. Um, and you have cellular debris.

22 A. Yes.

23 Q. And zero epithelial cells.

24 A. Yes.

25 Q. Then after you do the process to, I think --  
26 what is the process called where you go from pre to  
27 post? Is there a name for that?

28 A. No. It's just the different steps of the

1 extraction process.

2 Q. The extraction process.

3 A. Yeah.

4 Q. You went actually from plus two to plus one.

5 A. Yes.

6 Q. Have you ever seen that before?

7 A. Yes.

8 Q. What is the reason that that would go down?

9 A. Like I said, it's a very small representative

10 of our entire sample, so it's not going to always be

11 the same, no matter what. We're not looking at

12 everything that's in there. We're only looking at a

13 small portion so it just depends on what we get.

14 Q. Is it possible that it went down because you

15 misidentified sperm pre?

16 A. No.

17 Q. It's not possible.

18 A. No.

19 Q. Um, you have a note in your, on page 11.

20 Inadvertently added substrates back to tubes. Um, can

21 you read that?

22 A. Sure. It says, "Inadvertently added

23 substrates back to tubes with d.b.," which is an

24 abbreviation for a digest buffer, "before making

25 predigest slide. To avoid further manipulation of the

26 substrates, prejudge slides were not made."

27 Q. When you say, "inadvertently," who did that?

28 A. I did.



1 Q. Did you make any observations of the slides?  
2 Did you make notes of those observations.

3 A. These are the notes.

4 Q. Okay. And do you have an opinion about the  
5 when the sperm indicated an SY-1 was placed there.

6 A. No, I cannot make an indication of when the  
7 D.N.A. and sperm were deposited.

8 Q. Okay. Do you have an opinion about whether,  
9 in general terms, could it have been years ago when it  
10 was placed there?

11 A. I guess it's possible, but D.N.A. will degrade  
12 over time, especially in a environment that's an open  
13 air environment, not refrigerated and not kept under a  
14 certain temperature or condition. It would be a very  
15 degraded profile if it was years.

16 Q. Is it possible that it was deposited there  
17 more than a year and a half ago?

18 A. That could be possible.

19 Q. Um, and you analyzed the chair. And there  
20 were no other evidences of sperm, correct, on that  
21 chair?

22 A. There were no other stains that I found, no.

23 Q. Is the stain, or, the item you found on SY-1  
24 consistent with what's commonly known as a transfer  
25 stain?

26 A. Based on the shape of the stain, I cannot tell  
27 whether it's a transfer. You mean a secondary transfer  
28 from something else?

1 Q. Yes.

2 A. Based on the stain, I can't determiner that.

3 Q. So it's possible then that the individual who  
4 put the stain on that chair, um, based on the SP-1  
5 evaluation, if that person had sperm in their underwear  
6 and then went to the bathroom, touched their underwear  
7 and later touched the chair, would that be consistent  
8 with that?

9 A. I don't believe so. It looks like it's a  
10 straight semen stain. If it was transferred from  
11 underwear, I don't think it would actually like look a  
12 stain.

13 Q. What would it like?

14 A. It might not look like anything. You might  
15 just swab it and find sperm.

16 Q. So you're conclusion is that it was not a  
17 transfer.

18 A. It looks to be a straight stain from a  
19 straight liquid, but whether it was just deposited on  
20 there or wiped from something else, if it was a liquid  
21 transferred, it could be transfer.

22 Q. Would it be consistent with that type of  
23 transfer based on the positivity of the sperm, in other  
24 words, a small amount. Is that more consistent?

25 A. The amount of sperm varies, um, between  
26 individuals, between stains, between the small  
27 representation that we're actually looking at, so I  
28 don't think that that would really matter if it was

1 transferred or not.

2 Q. So the amount of sperm located in the sample  
3 is not relevant to whether it was a transfer or not?

4 A. It could -- I don't think it necessarily is  
5 indicative of a transfer because it could be that way  
6 just based on the straight stain.

7 Q. Would a person's sperm count have something to  
8 do with that?

9 A. It's possible.

10 Q. We're talking about the normal, the average is  
11 250 million and you found two in ten. Is that --

12 A. Yes. Like I said, we are looking at a very  
13 small sample size compared to an entire ejaculate.

14 Q. Okay. If you could turn to page 42 of your  
15 notes. I'm sorry, 42 of the D.N.A. report. Are you  
16 with me?

17 A. Yes.

18 Q. This is a phone log?

19 A. Correct.

20 Q. Um, did you make that note about the  
21 paragraph, "I spoke with Sean"?

22 A. Yes.

23 Q. And can you explain that note?

24 MS. FILO: Objection, Your Honor, relevance  
25 and calls for hearsay.

26 THE COURT: Offer of proof please?

27 MR. CLARK: She's an expert. I think she can  
28 rely on hearsay and comment on hearsay in forming her

1 opinions.

2 THE COURT: We haven't established yet that  
3 she relied on that as a basis to form her opinion.  
4 Could you ask that question?

5 BY MR. CLARK:

6 Q. Why did you make this note?

7 A. When --

8 MS. FILO: Objection, Your Honor, relevance.

9 THE COURT: Sustained.

10 MR. CLARK: So am I not being allowed to ask a  
11 question of an expert relative to their report.

12 THE COURT: No. Counsel, you're asking for  
13 hearsay. It's an out-of-court statement offered for  
14 the truth of the matter asserted, what Officer Pierce  
15 told this witness.

16 MR. CLARK: I didn't get to that, but I think  
17 that an expert can rely on hearsay.

18 THE COURT: Yes, but I don't know yet that she  
19 relied on the statement from the officer to form her  
20 opinion. I'll ask the question.

21 Madam, did you rely on what Officer Pierce  
22 told you in forming your opinion of this case?

23 THE WITNESS: No.

24 THE COURT: Then the objection is sustained.

25 BY MR. CLARK:

26 Q. You did not rely on what the investigating  
27 officer told you in formulating an opinion.

28 A. No.

1 Q. Did you ever receive a supplement regarding  
2 the collection of the chairs?

3 MS. FILO: Objection, Your Honor, discovery.

4 THE COURT: Offer of proof please?

5 BY MR. CLARK:

6 Q. Well, you requested a supplement from Officer  
7 Pierce; is that correct?

8 A. That is correct.

9 Q. Why?

10 MS. FILO: Objection, calls for hearsay.

11 THE COURT: Just a moment. I'll take it  
12 subject to a motion to strike. Go ahead please.

13 BY MR. CLARK:

14 Q. Why did you ask for the supplement?

15 A. Because any time we develop a D.N.A. profile,  
16 we have to figure out how it was collected, where it  
17 was located, and how it was involved in the crime to be  
18 able to upload the profiles to the database. And so we  
19 have to know how these samples are collected whether we  
20 can put them in the database or not.

21 THE COURT: I'll allow it.

22 MR. CLARK: May I make further inquiry on  
23 this?

24 THE COURT: Sure.

25 BY MR. CLARK:

26 Q. Did you ever receive such a supplement?

27 A. I'm not sure because sometimes they don't go  
28 directly to me; they just go into our administration.

1 Q. Well, you don't know whether you saw the  
2 supplement on how this was checked?

3 A. He told me how it was and I told CODIS  
4 administer and then we were waiting for the police  
5 report.

6 Q. Have you got it?

7 MS. FILO: Objection, Your Honor, hearsay and  
8 discovery. The witness has testified that the purpose  
9 of the supplemental report would have been to upload to  
10 CODIS. It had nothing to do with her ability to  
11 formulate her opinion in this case.

12 MR. CLARK: I appreciate the testimony from  
13 the D.A., but that wasn't --

14 THE COURT: The witness does not appear to  
15 have personal knowledge of what was in the supplement.

16 Did you ever personally see the supplement?

17 THE WITNESS: No.

18 THE COURT: She can't testify about it.

19 Please ask your next question.

20 BY MR. CLARK:

21 Q. Um, I want to ask you just some questions  
22 about epithelial cells. Are there epithelial cells in  
23 your mouth?

24 MS. FILO: Objection, asked and answered.

25 THE COURT: Overruled.

26 BY MR. CLARK:

27 Q. And, actually, are there -- is that why we  
28 take D.N.A. swabs from people's mouths because of the

1 abundance of epithelial cells?

2 A. Correct.

3 Q. Um, and is the mouth an environment that's  
4 easily, the epithelial cells in the mouth are easily  
5 transferred to another object?

6 A. Yes. There are multiple ways to transfer from  
7 the mouth.

8 Q. Um, if someone had been orally copulated,  
9 would you expect an epithelial cell transfer onto the  
10 individual's penis?

11 A. Yes.

12 Q. And if that person ejaculated and the sperm  
13 were spit out, would you expect to find the epithelial  
14 cells of the individual in that sample?

15 A. Are you saying that the person -- can you  
16 clarify?

17 Q. Yes. If someone, if the man is orally  
18 copulated by a female, would you expect the epithelial  
19 cells of the female to be, then, on the man's penis?

20 A. Yes.

21 Q. And then if that man touched his penis after  
22 the oral copulation, okay, and there was ejaculate on  
23 his penis, in his hand from touching his penis, would  
24 you expect to find the epithelial cells of the victim  
25 within that sample?

26 A. If he touched his penis afterwards?

27 Q. Yes.

28 A. Yes.

1 Q. Um, and if the individual, the female had, if  
2 the male had ejaculated into the female's mouth and the  
3 female then spit out that semen, would you expect in  
4 that case to find both the male sperm cells and the  
5 female's epithelial cells?

6 A. It's likely that you would have a mixture of  
7 saliva in that sample.

8 Q. Um, if I were to shake your hand, you would  
9 transfer epithelial cells onto my hand, correct?

10 A. Possibly.

11 Q. Okay. If I was to touch your foot, would I  
12 also expect to find your epithelial cells on my hands?

13 A. Possibly. Epithelial cell transfer  
14 skin-to-skin contact. Some people shed more than  
15 others. And for us to try to find it off someone else,  
16 swabbing somebody else's skin looking, if you were  
17 swabbing someone's skin that had just been touched by  
18 another individual, it's possible for us to find the  
19 individual that touched them on them, but it's  
20 sometimes unlikely because their skin cells would  
21 overwhelm what might little have been touched by the  
22 other individual.

23 Q. Are you speaking now about the touching of,  
24 one person touching another person's feet?

25 A.. Yes, straight epithelial, just hand-to-hand  
26 contact.

27 Q. So that's much more less likely than if you  
28 actually had skin-to-mouth contact; is that right?



1           A.    Yes.   Bodily fluids such as saliva would have  
2   more.

3           Q.    Okay.   Then if a person had their penis  
4   touching another person's foot, could that transfer  
5   epithelial cells?

6           A.    Just without --

7           Q.    Rubbing your penis on someone else's foot,  
8   would that create a transfer of epithelial cells from  
9   the foot to the penis?

10          A.    Yes, it could.

11          Q.    And then if that person ejaculated and was  
12   holding their penis, would you expect to find that  
13   epithelial transfer in the ejaculate?

14          A.    Possibly not.

15          Q.    Possibly not? Does that mean that it probably  
16   would be?

17          A.    You're saying that -- let me see. Can I see  
18   if I have what you're saying correct?

19          Q.    Yes.

20          A.    So someone's penis touched someone's foot.

21          Q.    Right. They're rubbing their penis on  
22   someone's foot.

23          A.    And then the ejaculate?

24          Q.    They ejaculate into their hand?

25          A.    Their own hand.

26          Q.    Correct.

27          A.    And then --

28          Q.    Then they rub their penis after that and they

1 have their own ejaculate in their hand, okay?

2 A. Okay.

3 Q. Would you expect to find epithelial, transfer  
4 of epithelial cells from the foot to the ejaculate?

5 A. It's possible, but very unlikely since that  
6 would be tertiary transfer of low level sample into a  
7 highly robust D.N.A. sample such as semen.

8 Q. Were the samples that you've noted in SY-1 and  
9 SY-2 robust samples? I don't know what you mean by  
10 "robust."

11 A. So robust, I mean, when we talk about things  
12 like epithelial cells, usually if it's just someone  
13 touched something once or a couple of times, we're  
14 going to get lower levels than if it's a stain of a  
15 biological fluid. If it's semen, saliva or blood,  
16 usually their full of a lot more D.N.A., which is what  
17 I mean by "robust."

18 Q. Okay. Do you have an opinion about, when you  
19 use the word "robust" to describe the instant samples  
20 that you looked at?

21 A. So --

22 Q. That's SY-1 and SY-2.

23 A. Yes. My quant sheet which is pages 13 and 14,  
24 this is the sheet that we use to determine how much  
25 D.N.A. is in the small sample that we took. The sperm  
26 cell fraction of SY-01 --

27 Q. Could you refer, when you're noting that,  
28 where you are in your report.

1           A.    Yes.  It's on page 14, 14 of the lab packet  
2           that she gave me.  It's page 10 of my note packet.  
3           It's this blue and green sheet.

4           Q.    Do you have a Bates stamp at the bottom?

5           A.    The one that you gave me?  Yeah, it's 014.

6           Q.    Okay.

7           A.    Um, so if you look at the sperm cell fraction  
8           which is D-6 SP SY-01, the value is nanograms per  
9           microliter.  And it's 5.1059.  That's a fairly, very  
10          good sample for us.  Um, that means that there's a lot  
11          of D.N.A. there.

12          Q.    Do you have an opinion with whether SY-1  
13          -- let's assume for the sake of argument the sperm you  
14          found on SY-1 and SY-2, were those deposited at the  
15          same times?  Or different times?  Or you don't know?

16          A.    I did not make that determination.

17               MR. CLARK:  If I could check my notes, Your  
18          Honor?

19               THE COURT:  Sure.

20          BY MR. CLARK:

21          Q.    In your observation of the chairs, did you  
22          find any of the D.N.A. that you've described or the  
23          semen embedded into the fabric of the chair?

24          A.    For SY-01 I did what we call a mapping which  
25          is what I was saying before where we take a piece of  
26          filter paper and wet it.  We touch the whole thing and  
27          try to absorb whatever the stain is.  That's how we  
28          test it.  So I tested the entire fabric portion of that

1 chair. And none of it tested positive with our  
2 presumptive test.

3 Q. How about SY-2.

4 A. I did not test the fabric portion in SY-2.

5 Q. Is fabric a good vehicle to receive D.N.A.  
6 exemplar or a D.N.A. sample?

7 A. It will soak in. If it's a fluid it will soak  
8 into the fabric.

9 Q. Better than like a plastic.

10 A. Yes.

11 Q. Now, did any of the testing that you did  
12 involve destructive testing?

13 MS. FILO: Objection, Your Honor, discovery.

14 THE COURT: Offer of proof please?

15 BY MR. CLARK:

16 Q. Well, is there a way for an independent lab to  
17 review your work?

18 MS. FILO: Objection, Your Honor, discovery.

19 THE COURT: Sustained.

20 BY MR. CLARK:

21 Q. Did you ever notify the D.A. that you were  
22 doing destructive testing?

23 MS. FILO: Objection, Your Honor, discovery.

24 THE COURT: Sustained.

25 BY MR. CLARK:

26 Q. Well, if you look at the photograph of SY-1  
27 that you have in your packet -- are you with me?

28 A. Yes.

1 Q. There appears to be kind of a, for lack of a  
2 better word, fabric tag. Did you put that on there?

3 A. No.

4 Q. You know what I meant when I said, "the fabric  
5 tag"?

6 A. The white tag that's in the crease?

7 Q. Yes. The other chair didn't have such a tag  
8 when it came to you, correct? SY-2?

9 A. No.

10 Q. Um, in your table on page 3, if you go across  
11 from -- are you with me on that table?

12 A. Yes.

13 Q. Could you briefly explain that table.

14 A. That is our table of the D.N.A. profiles. So  
15 under the first column, it says, "locus." Those are  
16 the different areas that we look at to type the D.N.A.  
17 And, um, when you go across each one, the numbers that  
18 are in the columns underneath the different samples,  
19 those are the different alleles.

20 Q. Could you go down the column to D-2 S-1 338 in  
21 the middle of that table?

22 A. Yes.

23 Q. Um, in the third box, yellowish white stain  
24 from blue chair you have the number 23 and then I.N.C.  
25 What does that mean?

26 A. That means that this profile was a little bit  
27 low, lower than, um, some, we have threshold. And it  
28 was, that allele was not above our threshold enough for

1 me to call it homozygote. That means there are two  
2 copies of the same allele. So, because we have in  
3 profiles that are lower or degraded, sometimes one  
4 allele may show up and the other one may drop out which  
5 means we aren't seeing it because there wasn't enough  
6 of it to make copies of it. So with the homozygote,  
7 sometimes it's harder to tell if there's two copies of  
8 it if it's a lower level sample.

9 Q. Does I.N.C. mean inconclusive?

10 A. Yes.

11 Q. And then further down that table, you have the  
12 word, A-M-E-L-O-G-E-N-I-N. What does that mean?

13 A. Amelogenin is the gender locus. And that  
14 tests your chromosomes. So you have XX or XY.

15 Q. With respect to that reference in the furthest  
16 column to your right, you have the "X-Plus" and then a  
17 "Y." What does that mean?

18 A. So underneath the table, there is, um, a  
19 legend for what the plus means. The plus means the  
20 taller peak in pair with peak-height ratio less than 70  
21 percent. It indicates a possible mixture and/or  
22 stochastic effect.

23 THE COURT: Could you spell that.

24 THE WITNESS: S-T-O-C-H-A-S-T-I-C.

25 BY MR. CLARK:

26 Q. Is that effect indicative that there's a very  
27 small amount of D.N.A.

28 A. Yes. The stochastic effect can happen when

1 you have a small amount of D.N.A. And the different  
2 alleles don't get amplified to the same degree.

3 MR. CLARK: Thank you. Nothing further.

4 THE COURT: Recross?

5 MS. FILO: No. Thank you, Your Honor.

6 THE COURT: All right. Is this witness  
7 excused or would either side like her to remain on  
8 phone standby?

9 MR. CLARK: She's excused.

10 MS. FILO: Excused.

11 THE COURT: All right. Thank you very much,  
12 ma'am, for coming in.

13 MS. FILO: Your Honor, the People call Officer  
14 Sean Pierce.

15 SEAN PIERCE:

16 COURT CLERK: Do you solemnly state under  
17 penalty of perjury that the evidence you shall give in  
18 this matter shall be the truth, the whole truth, and  
19 nothing but the truth?

20 THE WITNESS: I do.

21 COURT CLERK: Thank you. Please have a seat.

22 Would you please state and spell your full  
23 name for the record.

24 THE WITNESS: Sean, S-E-A-N, Pierce,  
25 P-I-E-R-C-E.

26 THE COURT: Thank you. Please proceed.

27 MS. FILO: Thank you, Your Honor.

28 \\\

DIRECT EXAMINATION

BY MS. FILO:

Q. Um, Detective Pierce, you are a police officer with the City of San Jose?

A. That is correct.

Q. How long have you been so employed?

A. This is my 16th year.

Q. What's your current assignment within the department?

A. I'm assigned to the child exploitation detail which is part of our sexual assault unit.

Q. In connection with that assignment, were you detailed to an investigation at O.B. Whaeley Elementary School in the City of San Jose?

A. I was.

Q. In connection with that assignment, did you, um, interview a woman named Hilda Keller?

A. Yes, I did.

Q. When did that interview take place?

A. I believe it was the week of the 16th. It was about a week after.

Q. About a week after the incident was first recorded?

A. Yes.

MR. CLARK: Can I have an offer of proof for the line of inquiry and how it's relevant.

THE COURT: Sure.

MS. FILO: Your Honor, I believe Detective



1 Pierce interviewed Ms. Keller, that she told him that  
2 she was a former teacher O.B. Whaeley, that the  
3 defendant came to her classroom when she was alone,  
4 asked if he could take pictures of her toes, um, and  
5 asked if he could massage her feet. I think there has  
6 been specific -- he also talked about the inadequacy of  
7 his sex life with his wife and I think there's been  
8 testimony in this case about the defendant's behavior  
9 with children's feet.

10 THE COURT: Is this offered under 1108?

11 MS. FILO: It is. It's also offered as  
12 circumstantial evidence of the sexual intent of the  
13 defendant when he was, um, performing these acts with  
14 the children's feet.

15 THE COURT: Mr. Clark?

16 MR. CLARK: Okay. I've not been put on notice  
17 that there was going to be evidence of 1108-type  
18 evidence. I don't think this comes remotely close to  
19 1108 evidence. Um, but, secondarily, the issue  
20 Mr. Chandler is asking an adult female or we'll call  
21 this sexual harassment of an adult female, how that  
22 evidence is specific intent to molest an 8 year old  
23 child, I think, intenerated. And I don't believe it's  
24 relevant.

25 And without expert opinion, I don't know see  
26 how can you draw any conclusion that, asking to take  
27 the picture of an adult female's foot and giving a foot  
28 massage, somehow transcends into a specific intent to

1       commit a child molest on an 8 year old.

2               THE COURT: Well, let me give you an indicated  
3       ruling and I'll invite further comment. 1108 allows  
4       evidence of other sexual offenses. And (d)(1)(a)  
5       defines a sexual offense as a crime under the law of  
6       the state of the United States that would involve any  
7       of the following: Any conduct prescribed by 243.4,  
8       261, 261.5, 262, 264.1, 266(c), 269, 286, 288, 288(a),  
9       288.2, 288.5, and 289 or subdivision (b), (c), or (d)  
10      and Section 311.2 and the following sections, so it's  
11      basically any of the sex offenses based on age or force  
12      and child pornography.

13              And, um, what's the legal -- it's not  
14      flashing. It's not indecent exposure. But it clearly  
15      contemplates an offense not a sexual preference, no  
16      matter how tacky. I don't see that it fits the offense  
17      language of 1108.

18              Do the people wish to be heard further?

19              MS. FILO: Yes, Your Honor. It really isn't  
20      offered as 1108 evidence. It's really offered as  
21      circumstantial evidence of intent, sexual intent. So  
22      it's not really, um, being offered as propensity of  
23      evidence. It's really being offered as circumstantial  
24      evidence of a proclivity that the defendant seems to  
25      have.

26              THE COURT: Let me give you an indicated  
27      ruling on that and, um, I will invite further comment.  
28      If it's a specific act, then it's generally prohibited

1 by 1101 of the Evidence Code which says that evidence  
2 of a person's character or trait of his character,  
3 whether in the form of an opinion, evidence of  
4 reputation, or evidence of specific instances of his or  
5 her conduct, which this is, is inadmissible when  
6 offered to prove his or her conduct on a specified  
7 occasion, but it can be used to prove the lateral fact  
8 such as motive, opportunity, intent, preparation, plan,  
9 knowledge, identity, absence of mistake or accident, or  
10 Mayberry consent.

11 So which of those do you think fits?

12 MS. FILO: I think it's really 1101(b)  
13 evidence of intent.

14 THE COURT: All right. Do you wish to be  
15 heard, Mr. Clark.

16 MR. CLARK: Yes. Um, first of all, I think if  
17 you were to draw, assuming -- we'll just assume for the  
18 sake of argument that what Ms. Keller said to the  
19 officer was true, that he offered to take pictures of  
20 my feet and give me a foot massage, something to that  
21 effect. You would then -- assuming that's proven, you  
22 would then need to draw the nexus between that  
23 statement and a person's proclivity to commit a child  
24 molest, you know, on an 8 year old child. And I don't  
25 think you can do that, especially if you're not  
26 offering as expert opinion that people who like to give  
27 massages are child molesters.

28 THE COURT: Well, the specific -- hold on.

1           The specific intent language of 288(a) says  
2           with the intent of arousing or appealing to or  
3           gratifying the lust, passions, or sexual desires of  
4           that person or the child. Um, without similarity in at  
5           least the age of the people involved, I don't see that  
6           it's, there's a connection.

7           Go ahead.

8           MS. FILO: I'm sorry. The similarity is in  
9           the perpetrator, not in the age of the victim. So if  
10          the defendant's interest or what we characterize as an  
11          unnatural sexual interest in feet, I don't think that  
12          the size of the foot is necessarily the issue.

13          THE COURT: Well, only one of the five  
14          complaining witnesses, um, that was Ms. A., um,  
15          testified that the defendant grabbed her ankles. And  
16          that was only on one occasion, according to Ms. A. and  
17          it was not the primary purpose of the interaction which  
18          I take to be the ball which she found, um, against her  
19          buttocks. One incident does not a preference make.

20          MS. FILO: Your Honor, I'm sorry. Ms. L.  
21          testified exclusively that her conduct, that the  
22          defendant's conduct with her was related only to feet.  
23          And Ms. W. also testified that, um, there was some  
24          incident involving her feet.

25          THE COURT: All right, I'll look. You say it  
26          was Ms. L. and Ms. W.?

27          MS. FILO: Yes. Ms. L. testified that that  
28          was the only conduct that was involved with her.

1 THE COURT: Okay, I see it.

2 Ms. L. testified that she had something on her  
3 eyes, this blue blindfold. She took off her shoes.  
4 She heard the defendant opening the cabinet. She  
5 doesn't remember if he said anything. He started  
6 rubbing things on her feet, but he didn't say why. She  
7 said it was more than one thing. One felt smooth,  
8 another was bumpy. She never peaked from her  
9 blindfold. She thought it might be a glue stick.

10 And Ms. W. said that he put something between  
11 her feet and rubbed them together. It kind of felt  
12 like skin. "I didn't know what was going on." We were  
13 supposed to guess what it was. The game was always  
14 alone. Just a moment.

15 When is the alleged time of the statement?

16 MR. CLARK: The time of the statement or the  
17 conduct?

18 THE COURT: The time of the statement.

19 MS. FILO: I think Officer Pierce said the  
20 statement was around January 16th, 2012.

21 THE COURT: And what is the time frame of the  
22 conversation that she's relating?

23 MS. FILO: She said she was a teacher at O.B.  
24 Whaeley from the year 2000 to 2005.

25 THE COURT: When did this conversation occur  
26 with the defendant allegedly?

27 MS. FILO: Your Honor, we'd have to ask the  
28 witness if he had more specific information.

1 THE COURT: Detective Pierce, did this witness  
2 tell you when this conversation with the defendant took  
3 place?

4 THE WITNESS: She didn't have the exact date,  
5 but it was right prior to her leaving the school for  
6 another school. She left the school in 2005.

7 THE COURT: All right. And the offer of proof  
8 is, say again please?

9 MS. FILO: Sure. We believe that -- the  
10 People contend that the defendant has an unnatural  
11 sexual interest in feet, for lack of a better way to  
12 put it. We believe that that sexual interest was  
13 demonstrated with conduct by involving Ms. Keller. Um,  
14 and that her statement to the officer is relevant for  
15 that purpose. Um, some of the conduct that's been  
16 described by the children, again, involves the  
17 defendant's conduct with their feet. The People have  
18 the burden of proof with respect to establishing sexual  
19 intent in those touchings. And I believe it's  
20 circumstantial evidence of his intent when doing that.

21 THE COURT: Do you wish to be heard further?

22 MR. CLARK: No.

23 THE COURT: All right. Um, I'll allow it for  
24 the limited purpose of showing intent. I'm only  
25 interested in activities involving feet. I'm not  
26 interested in anything about his marital history, his  
27 romantic relationships, what he had for dinner, or  
28 anything else. I'm just interested in comments about

1 feet.

2 MS. FILO: okay.

3 BY MS. FILO:

4 Q. Officer Pierce, did Ms. Keller tell you that  
5 she believed the defendant had a sexual interest in  
6 her?

7 A. Yes.

8 MR. CLARK: Objection. We just went afield of  
9 what the court ruled.

10 THE COURT: Sustained. Rephrase.

11 MS. FILO: Your Honor, the only reason I asked  
12 that specific question is because it's in the context  
13 of that disclosure that she mentions this incident with  
14 the feet.

15 THE COURT: Well, I'm not interested in his  
16 romantic relationships with any adult women. I'm just  
17 interested in, as I indicated, with activity involving  
18 feet.

19 MS. FILO: That's fine.

20 BY MS. FILO:

21 Q. Officer Pierce, did Ms. Keller -- what did  
22 Ms. Keller tell you with respect to Mr. Chandler's  
23 comment or comments to her about feet?

24 A. She said that she was in her classroom and he  
25 came in the classroom, shut the door behind him, asked  
26 her if he could take pictures of her toes for a massage  
27 therapy class and then asked her if he could massage  
28 her feet.

1 Q. Did this make her feel uncomfortable?

2 MR. CLARK: Objection, relevance.

3 THE COURT: Sustained.

4 BY MS. FILO:

5 Q. Officer Pierce, did you also interview the  
6 Acting Assistant Principal, Mr. Lara, L-A-R-A?

7 A. Yes, I did.

8 Q. When did that interview take place?

9 MR. CLARK: Would you mind referring me to the  
10 Bates stamp page?

11 MS. FILO: Sure. 403 just for counsel.

12 THE WITNESS: May I refer to my report?

13 BY MS. FILO:

14 Q. If that would refresh your recollection.

15 A. It was on the 10th.

16 Q. January 10th?

17 A. January 10th, 2012, yes.

18 Q. Um, what did -- did Mr. Lara relate to you  
19 that he had seen Mr. Chandler in the early morning  
20 hours of January the 10th?

21 A. Yes, he did.

22 Q. What did he tell you?

23 A. He said that he saw Mr. Chandler arrive at  
24 school about 6:45 and he walked across the campus. He  
25 said he was carrying a bag that appeared to have  
26 something heavy in it and then he lost sight of him.

27 Q. Did Mr. Lara tell you what he did upon seeing  
28 Mr. Chandler with this bag on campus early in the



1 morning hours?

2 A. Yes, he did.

3 MR. CLARK: Objection. Request an offer of  
4 proof.

5 THE COURT: All right. Go ahead please.

6 MS. FILO: I believe that Mr. Lara told  
7 Officer Pierce that, in the early morning hours of  
8 January the 10th, he observed Mr. Chandler with this  
9 bag, um, he determined that Mr. Chandler was not  
10 supposed to be on campus. He went to Mr. Chandler's  
11 classroom, found him in the classroom, um, with  
12 cleaning supplies, specifically Clorox, Handiwipes, and  
13 Lysol in the classroom with the door locked.

14 THE COURT: Response?

15 MR. CLARK: Well, my reading of this report  
16 doesn't necessarily say that Mr. Lara reiterated that,  
17 but Mr. Lara may have told Mr. DeGaria that, something  
18 to that effect. And then the idea that the D.A. has  
19 offered that Mr. Chandler was not supposed to be on  
20 campus, I don't think there's any evidence of that in  
21 his statement. Um, so I don't know, it doesn't look  
22 like this -- so I'm objecting on hearsay grounds  
23 because I don't believe this witness observed it. I  
24 believe that he heard it from someone else and then he  
25 reiterated it.

26 THE COURT: I'll take it subject to a motion  
27 to strike. You're correct that only one level of  
28 hearsay is allowed at preliminary examination and the

1 hearsay declarant has to have personal knowledge. I  
2 don't know that yet. Maybe that will develop.

3 Go ahead please.

4 BY MS. FILO:

5 Q. Did Mr. Lara tell you that he went, he  
6 personally went to Mr. Chandler's classroom?

7 A. Yes.

8 Q. Did he tell you that, when he got there, he  
9 found the door locked?

10 A. Yes.

11 Q. Did he tell you that a key was used and that  
12 he personally observed the key being used in order to  
13 open the door?

14 A. Yes.

15 Q. Did he tell you that, when he opened that  
16 door, he found Mr. Chandler in the classroom with  
17 cleaning supplies?

18 A. Yes.

19 Q. Thank you. Detective Pierce, did you  
20 interview B., the first young woman that testified for  
21 us in this proceeding, on or about January 10th, 2012?

22 A. I did.

23 Q. Have you reviewed that, um, interview?

24 A. Yes, I have.

25 Q. Was that interview audio recorded?

26 A. Yes, it was.

27 MS. FILO: Your Honor, at this time the People  
28 would seek to introduce the recording of B. It is --

1 the People do not believe that it is necessary for the  
2 court to review that recording unless the court wants  
3 to do that. It is our intention that the recording and  
4 an accompanying transcript be introduced into evidence  
5 such that if B. were to become unavailable at a later  
6 date, the defense would have been given a full and  
7 complete opportunity to confront and cross examine both  
8 Detective Pierce and B. on the contents of her  
9 statement and satisfy any *Crawford* concerns.

10 MR. CLARK: I'm not willing to stipulate to  
11 that.

12 THE COURT: A copy of this video and, um,  
13 audio transcript has already been given to defense  
14 counsel; is that correct?

15 MS. FILO: Correct.

16 THE COURT: And you're moving it into  
17 evidence?

18 MS. FILO: I am under Evidence Code Section  
19 1360.

20 THE COURT: Okay. And is there an objection?

21 MR. CLARK: Yes.

22 THE COURT: All right. And the basis of the  
23 objection is?

24 MR. CLARK: I need to research this. I don't  
25 know this on the top of my head under *Crawford*. It was  
26 not sworn. Um, and I don't believe you can just move a  
27 transcript in like this and try to satisfy *Crawford*, so  
28 just because she gave me a copy of it. I have a copy

1 of the transcript. The witness testified here today.

2 THE COURT: Yes.

3 MR. CLARK: Not today, during this prelim. To  
4 suggest that then makes her prior statement to a police  
5 officer admissible where we weren't given the  
6 opportunity to cross examine that, I just think, I'm  
7 being sandbagged on this. I'd at least like the  
8 opportunity to look at it.

9 MS. FILO: Sorry, Your Honor, but I am quite  
10 confident that we discussed this when we were assigned  
11 to this department. So the defense has been on notice  
12 of the People's intention to introduce the C.I.C.  
13 interview and that's the Child Interview Center  
14 interview. There is no hearsay objection. It  
15 satisfies all the requirements of Evidence Code Section  
16 1360. It is independently admissible. There is no  
17 hearsay objection. The only objection to its  
18 presentation at the time of trial would be *Crawford*,  
19 um, some sort of *Crawford* objection. And the People  
20 are introducing the evidence at this time, um, and we  
21 did put the defense on notice at the beginning of this  
22 preliminary hearing that we were going to do that such  
23 that the defense had the opportunity to confront and  
24 cross examine the witness and the officer such that if  
25 she becomes unavailable later that there would be no  
26 *Crawford* objection.

27 I'm not asking the defense to stipulate to  
28 that. And I'm not asking this court to make a finding

1 with respect to a *Crawford* objection that may be lodged  
2 at a later time.

3 I'm simply asking that the evidence be  
4 admitted such that a reviewing court or at the time of  
5 trial, the trial court can make a determination whether  
6 or not *Crawford* has been satisfied.

7 THE COURT: I don't think we can do two parts  
8 like that. If you introduce it into evidence, of  
9 course I'm going to look at it. I have to which is  
10 going to take far more than the three-day estimate  
11 which you both assured me was realistic. If I look at  
12 it and the defense wants to raise a *Crawford* issue, I  
13 have to hear that. I understand that the hearsay  
14 exception is not the problem. If I make a  
15 determination that the circumstances are reasonable,  
16 then the foundation of 1360 is met.

17 If there's a *Crawford* argument that it's  
18 testimonial in nature and that she's not available for  
19 some reason, I'd be happy look into that. I don't see  
20 she's unable because she was in fact here.

21 MS. FILO: The *Crawford* objection cannot be  
22 lodged now. She's been here. She's been cross  
23 examined and confronted. It is not a *Crawford* lodged  
24 now. It is the People's way to protect against a  
25 *Crawford* objection that may be lodged later. I don't  
26 think this court can in any way make a determination as  
27 to whether or not that *Crawford* objection will prevail.

28 THE COURT: He can make a *Crawford* objection

1 as soon as you offer it. What's to stop him?

2 MR. CLARK: I do believe --

3 MS. FILO: He's had an opportunity to, uh,  
4 confront and cross examine the witness. She was here.

5 MR. CLARK: You're doing this -- I mean, I've  
6 never seen -- you're trying to put something in, just  
7 in case somebody doesn't testify at trial.

8 MS. FILO: Yes.

9 MR. CLARK: I don't think that this is the  
10 place to make, admit evidence for something that may  
11 happen in the future?

12 THE COURT: Let's go back to square one. Is  
13 it hearsay? Yes. Is it an out-of-court statement  
14 offered for the truth of the matter asserted? Is there  
15 an exception? Yes, 1360. In that respect, it's self  
16 authenticating. I can make a determination whether  
17 it's made under circumstances that are trustworthy.  
18 But as soon as it's introduced into evidence at any  
19 time for any reason in any proceeding, counsel has a  
20 right to object.

21 MS. FILO: What would be the basis?

22 THE COURT: If he does object, then I have to  
23 rule on the objection.

24 MS. FILO: What's the objection?

25 THE COURT: Crawford, apparently.

26 MR. CLARK: Crawford.

27 MS. FILO: You had an opportunity to confront  
28 and cross examine the witness.

1 MR. CLARK: I don't mean to argue. I've made  
2 a *Crawford* objection. It is highly irregular to try to  
3 put a transcript in like this, um, you know, without at  
4 least going into this is what the witness said and  
5 didn't say. Again, it is testimonial. I mean, it's  
6 why she wants to put it in. Otherwise, she wouldn't be  
7 putting it if it wasn't testimonial. What she's asking  
8 to do is to have this court accept something in  
9 evidence in the future if a witness failed to testify.  
10 If she called the witness at prelim, the witness  
11 testified, I don't, I don't see that this is an  
12 appropriate vehicle to be admitting the transcript in  
13 case the witness decided later. So I'm making a  
14 *Crawford* objection. And I'm making a hearsay  
15 objection. I do believe it's testimonial. And then I  
16 think the court would have to review the entire  
17 transcript to see if, in fact, it meets an exception to  
18 the *Crawford* rule.

19 THE COURT: Well --

20 MR. CLARK: That's my objection.

21 THE COURT: Okay. There's no exception to the  
22 *Crawford* rule. *Crawford* comes in two parts: Is it  
23 testimonial? I would say 99 percent yes because it's  
24 by a plain clothes detective. It's not an ongoing  
25 emergency. It's I will interview now and I'll get this  
26 in court. The question is the second part of *Crawford*,  
27 which is, is the witness unavailable. And I don't know  
28 the answer to that one because she wasn't asked about

1 this at the time.

2 Go ahead.

3 MS. FILO: I think in fairness, she's been  
4 exhaustively asked about this.

5 THE COURT: But not about this.

6 MS. FILO: She was asked all about her  
7 statement. That has been fodder for the defense.  
8 They've always been able -- they cross examined her on  
9 her or statement. They Cross examined her about her  
10 out-of-court statements, about her statements to the  
11 police. She's been cross examined.

12 The reality is I think that I could introduce  
13 this evidence without notifying the defense that I  
14 believe it satisfies *Crawford*. I could just offer it  
15 under Evidence Code 1360. And if the court is more  
16 comfortable with me doing that without any  
17 representations about *Crawford*, I'm happy to do that.  
18 Because there cannot be a *Crawford* objection at this  
19 point. There is no *Crawford* because there's no  
20 *Crawford* issue. She has been here. She has been  
21 confronted and cross examined. This now is a Evidence  
22 Code 1360 statement. That's all it is at this point.

23 THE COURT: I think counsel would like to look  
24 at some case law to see if there's anything that  
25 contemplates this particular fact pattern.

26 MR. CLARK: The witness already testified.  
27 This would be duplicative anyway to what the witness  
28 testified to. She said it's not being used as a prior



1 inconsistent, prior consistent. There's no exception.  
2 It's not being used for any purpose, other than to put  
3 in a statement which is clearly testimonial. I mean,  
4 if the court wants to review the statement and say is  
5 this testimonial, we're done at the break, if she has,  
6 if Ms. Filo has a transcript, maybe that is the  
7 quickest way to resolve the issue because, if it's  
8 testimonial, it's not coming in.

9 THE COURT: Well, is your objection in part  
10 that it is cumulative?

11 MR. CLARK: Yes.

12 THE COURT: All right. Can you give me an  
13 offer of proof, Ms. Filo, of any part of the statement  
14 that is different and will help the People from her  
15 testimony?

16 MS. FILO: Your Honor, I think -- I mean,  
17 there are some areas where she supplemented, um, some  
18 information. For instance, I know in her in-court  
19 testimony in this proceeding, she did not talk about or  
20 mention the fact that Mr. Chandler had her get,  
21 actually lay down on the ground or get down on the  
22 ground and that he put a blanket over her and did some  
23 things with her feet at the time of the very first  
24 incident. In fact, she couldn't remember that that  
25 happened at all. That, um, incident is thoroughly  
26 described in her interview with the police department.  
27 So it's things like that, um, that I think are  
28 supplemental.

1 MR. CLARK: I would think the time for  
2 admission of that would have been right after the  
3 witnesses testified or during the testimony.

4 THE COURT: I can't control what, when, and  
5 how, but I can tell you, as the trier of fact, that I  
6 don't think that the addition of a blanket would  
7 contribute to my determination. There's one count of  
8 nonforceable 288 charge. That's the only thing that's  
9 in front of me. And, um, her testimony was that she  
10 was blindfolded. She had candy in her mouth. She  
11 thinks it was either caramel or chocolate.

12 Um, there was -- a long time ago there was  
13 round thing something salty and gooey came out. She  
14 thinks it came out of the round thing. It went on my  
15 clothes and on my chest. She says she thinks she heard  
16 keys. She thinks that she played that game about three  
17 times, and she didn't like the game. He said it was a  
18 science experiment. Um, she told her mom and Officer  
19 Sean and other police officers that she hasn't told her  
20 friends. It made her feel bad to play the game. She  
21 thinks the candy came before the gooey, salty stuff and  
22 it was a round thing. The water came out of the round  
23 thing while the thing was in her mouth. She could  
24 taste it a little, but it was salty and a lot came  
25 out. The thing was big. "It took up my whole mouth,"  
26 had a little trouble breathing.

27 Those are pretty dramatic facts. I don't know  
28 that the addition of a blanket will add much to my

1 determination. Under 352, I think that it's probative  
2 value is slight compared to what I already have and  
3 the, um, consumption of time is great.

4 Is there anything else from this witness?

5 MS. FILO: No, Your Honor, thank you.

6 THE COURT: All right. Um, cross exam  
7 please?

8 MR. CLARK: As I mentioned, he's under  
9 subpoena to my office. Would it be possible to take a  
10 short afternoon break and then I'll finish up?

11 THE COURT: Sure. Are the People requesting  
12 an offer of proof under 866?

13 MS. FILO: Yes.

14 THE COURT: Do you have any cross examination  
15 of this officer based on what he's already said?

16 MR. CLARK: Brief.

17 THE COURT: Go ahead. Let's do that first.

18 MR. CLARK: Okay.

19 CROSS EXAMINATION

20 BY MR. CLARK:

21 Q. Um, with respect to the statement that you  
22 attributed to Ms. Keller, um, when did the conversation  
23 between Mr. Chandler and Ms. Keller take place  
24 regarding giving her a foot massage?

25 A. She didn't know the exact date. She said it  
26 was prior to her leaving.

27 Q. When did she leave?

28 A. I believe she left in 2005.

1 Q. And when did she start?

2 A. When did she start?

3 Q. When did she start working there prior to her  
4 leaving, I mean, it's 2005, so we know it's at least  
5 back to 2005, and it could be back to however far. I  
6 have no idea.

7 A. I think she said 2000 to 2005 she was a  
8 teacher there.

9 Q. So sometime in a five-year period between 2000  
10 and 2005, Ms. Keller and Mr. Chandler had one  
11 conversation, at least as reported by Ms. Keller, about  
12 him offering to give her a foot massage.

13 A. That's correct.

14 Q. And did she comply with the request? Did he  
15 give her a foot massage?

16 A. No.

17 Q. Are you sure?

18 A. She didn't tell me he did.

19 Q. Did you ask her?

20 A. I'm not sure if I did.

21 Q. Is it in your report that you asked her?

22 A. I can look.

23 Q. Go ahead.

24 A. No, it's not in here.

25 Q. So you don't know, or, you don't know  
26 whether -- you believe that Ms. Keller -- that  
27 Mr. Chandler asked Ms. Keller can I give you a foot  
28 massage, but you don't know whether she complied and he

1 actually gave her one.

2 A. I do not know.

3 Q. Do you know the relationship between  
4 Ms. Keller and Mr. Chandler prior to that time? Were  
5 they friends? Acquaintances? Do you know?

6 A. I do.

7 MS. FILO: Objection, Your Honor. I thought  
8 this line of questioning was prohibited by the court.

9 THE COURT: May I have the question and answer  
10 read back.

11 (The requested record is read.)

12 MR. CLARK: I'll withdraw it.

13 THE COURT: Okay.

14 MR. CLARK: If I could ask Ms. Filo, could you  
15 direct me to Mr. Lara's statement again.

16 MS. FILO: It's on page 403.

17 BY MR. CLARK:

18 Q. Now, you said in your statement that Mr. Lara  
19 told you that Mr. Chandler was not supposed to be on  
20 campus. Did you say something to that effect?

21 A. The way I remember it is Mr. Lara called up  
22 Ms. Peery. She told him he was not to be allowed on  
23 campus. When he saw Mr. Chandler on campus, he called  
24 Ms. Peery.

25 Q. And then Ms. Peery told Mr. Lara that  
26 Mr. Chandler was not supposed to be on campus?

27 A. That is correct.

28 MR. CLARK: Then I'm moving to strike because

1 I don't believe there's any evidence that Mr. Chandler  
2 was told that by Ms. Peery and that would make this  
3 completely irrelevant.

4 THE COURT: Overruled.

5 BY MR. CLARK:

6 Q. Did Ms. Peery tell that to Mr. Chandler?

7 A. I have no idea.

8 Q. And then did Mr. Lara tell you that  
9 Mr. Chandler asked if he could pick up some of his  
10 personal items.

11 A. Yes.

12 Q. And did Mr. Lara allow Mr. Chandler to do  
13 that.

14 A. Yes, he did.

15 Q. And that Mr. Chandler, um, picked up a bottle  
16 of Lysol and a container of Clorox and Handiwipes and  
17 put them in his bag; is that correct?

18 A. That's correct.

19 Q. Was there those type of materials in  
20 Mr. Chandler's classroom?

21 A. I have no idea.

22 Q. And then Mr. Lara looked in the cabinet, um,  
23 in his class; is that correct?

24 A. Correct.

25 Q. After being told that he could take his  
26 personal items with him.

27 A. That's correct.

28 Q. Did Mr. Lara tell you that he saw Mr. Chandler

1 cleaning anything?

2 A. No.

3 MR. CLARK: Okay, thank you. Nothing on at  
4 that topic.

5 THE COURT: All right.

6 MR. CLARK: Are we still on the 1360 issue?

7 THE COURT: No, I think we've passed that  
8 because I ruled on it. Is that the end of your cross  
9 examination of this witness?

10 MR. CLARK: Yes, I think that's all.

11 THE COURT: Let's go to the 866 issue. The  
12 People have requested an offer of proof. I need an  
13 offer of proof as to what this witness will say that  
14 will establish an affirmative defense, negating an  
15 element of the crime, impeach the statement of a  
16 witness or impeach the statement of the hearsay  
17 declarant. Those are the four subjects specified.  
18 Which one do you pick?

19 MR. CLARK: I'm actually doing all of those, I  
20 think in my presentation.

21 THE COURT: Go ahead. I'll hear your offer of  
22 proof.

23 MR. CLARK: Okay. Officer Pierce prepared a  
24 search warrant affidavit in which he swore under  
25 penalty of perjury that he was requesting a judge to  
26 allow him to look for certain things because those  
27 items would show evidence of a sexual intent in  
28 children, okay? And, in my opinion, none of those

1 items, such as child pornography, those kinds of  
2 things, chat rooms, journals about children, sex toys,  
3 none of that was located, even this affiant, under  
4 penalty of perjury, said that we are likely to find  
5 these things which show evidence of intent. The fact  
6 that it wasn't found indicates the affirmative defense  
7 the absence of sexual intent.

8 THE COURT: Do the People wish to be heard?

9 MS. FILO: Sure, Your Honor. Unless this  
10 affiant put in that declaration that the absence of  
11 those items would vitiate sexual intent or the  
12 existence of a sexual crime, um, that, I think, would  
13 be appropriate impeachment. But the fact that he put  
14 in an affidavit that these items would be additional  
15 evidence of sexual crimes, um, and that they were not  
16 located, I think is relevant.

17 THE COURT: Um, it doesn't appear to me to be  
18 an affirmative defense because an affirmative defense,  
19 affirms, admits all the elements and adds an X factor,  
20 sure I admit it, but it was in self-defense; sure I hit  
21 him, but it was in defense of others; sure, I broke  
22 into the house, but there was a storm raging and I  
23 would have died. It's a necessity; sure, I gave him  
24 the money, but he had a gun to my head at the time.  
25 It's duress. This appears to negate an element of the  
26 crime, and I don't know that the absence of something  
27 also indicates the absence of a specific intent.

28 I'm thinking *People versus Stoll*, S-T-O-L-L,



1 in which the person accused of child molesting was  
2 allowed to bring in adult women, girlfriends to say  
3 he's perfectly normal. He likes adult woman. That was  
4 allude to counter the specific intent.

5 I don't know of any case that allows a black  
6 hole, so to speak, in absence of things that you might  
7 or might not find, um, to prove the absence of specific  
8 intent. I'll be happy look at any case you give me.

9 MR. CLARK: If I can just maybe quote from the  
10 affidavit of Sean Pierce under penalty of perjury.

11 THE COURT: Sure.

12 MR. CLARK: I will represent to the court I'm  
13 sure he's written a number of these search warrants and  
14 asked for the same thing, child pornography, chat  
15 rooms, sex toys, those kinds of things. These  
16 materials will demonstrate sexual proclivity,  
17 inclination, preference, and activities of the person  
18 under investigation providing evidence that will tend  
19 to show that the person has committed a felony.

20 So we don't dispute that Mr. Chandler touched  
21 a child. What we dispute is that Mr. Chandler touched  
22 a child for the purposes of sexual interest under 288.  
23 So the absence of evidence of intent, as described by  
24 the failure to find anything like what I've just  
25 described, shows the defense that an affirmative  
26 defense, yes, I touched a child, but I didn't do it for  
27 a sexual purpose.

28 And I'm not sure if the court is suggesting

1 that this would not be admissible at trial. I think  
2 the absence of the criminal intent -- and I don't mean  
3 it would always be relevant in an inquiry like this.

4 THE COURT: Okay. Um, let me ask some  
5 questions of, um, the officer.

6 Officer, did you incorporate in this search  
7 warrant language what I would call a profile search  
8 warrant for pedophiles?

9 THE WITNESS: Yes. I'm not sure what you're  
10 ...

11 THE COURT: I have seen search warrants in  
12 which officers describe the offense and then say it's  
13 common to find these items with this offense and that's  
14 what I'm looking for. It's not tied to this  
15 individual; it's just a profile. This is what I'm  
16 likely to find in this case. That's a profile as  
17 opposed to somebody saw him with X and I'm going to go  
18 look for X. Was it a profile search warrant or was it  
19 a specific search warrant?

20 THE WITNESS: Profile.

21 THE COURT: Okay. Um, I'll give you an  
22 indicated ruling and I'll invite further comment. A  
23 profile search warrant, which was briefly disfavored  
24 under regime of Rose Bird for those of us old enough to  
25 remember that time, um, states that, based on this  
26 offense, here's what I expect to find. So if it were  
27 drug dealers, you would expect to find large amounts of  
28 cash because they don't take credit cards. You would

1 expect to find weapons to, um, guard the inventory.  
2 You would expect to find pay/owe sheets to keep track  
3 of who knows what. They would expect to find scales to  
4 measure the stuff and large amounts of cash and all  
5 kinds of things that you wouldn't necessarily actually  
6 find.

7 If the charge were 288, you might also expect  
8 to find child pornography, um, um, in various kinds.  
9 You might expect to find pornography which imitates the  
10 action that was described. You might expect to find  
11 large amounts of this. That doesn't necessarily mean  
12 you would find it.

13 I don't see that the failure of one or more  
14 parts of the profile to be actually confirmed is even  
15 relevant, much less that it negates a specific intent.

16 Do you wish to be heard further on this?

17 MR. CLARK: Yes. In the hypothetical you just  
18 gave me about, does the person possess drugs with the  
19 intent to sell. That person is saying I possess drugs,  
20 but I didn't intend to sell them. Is the court  
21 suggesting that you wouldn't then be able to ask the  
22 investigating officer did you find pay/owe sheets, did  
23 you find this or other indicia of sales to negate the  
24 specific intent. The same argument would be made here  
25 which is that there was a touching of a child. And the  
26 defense theory is that that was not done for a sexual  
27 purpose.

28 The absence of a prurient interest in children

1 is relevant to the sexual, to the element of the crime  
2 because touching a child's not illegal. Touching a  
3 child with the purpose of a sexual intent, the absence  
4 of a specific intent is, specific intent is a specific  
5 element of this crime. The absence thereof is a  
6 defense to the crime. And I believe that the reason  
7 that the officer asked for these things is to suggest  
8 that the person who molests the child as opposed to  
9 touches them would have indicia of their prurient  
10 interest in children. That's consistent and that's why  
11 they asked for it.

12 Therefore, the flip side of that is the  
13 defense is saying, you didn't find it. Mr. Chandler  
14 turned everything over to you and the absence thereof  
15 indicates that the touching here was not done for a  
16 sexual purpose, but was done in an innocent manner.  
17 And that's a defense to the case.

18 THE COURT: Do you wish to be heard further?

19 MS. FILO: Your Honor, I think your example  
20 was probably a good one. And that was, if there were  
21 drugs and other indicia of drug sales, that that could  
22 help you determine whether or not someone is a drug  
23 dealer. I think that if the defense were able to  
24 argue, but there were no drugs, then I think it would  
25 be an affirmative defense to the charge. If somehow  
26 the defense in this case were able to argue, um, that  
27 the defendant wasn't there or that he's not capable of  
28 forming sexual intent, then I think this line of

1 inquiry would be relevant.

2 But, um, what Officer Pierce puts in a search  
3 warrant is I believe that this may help to show that,  
4 um, that this person is a, um, has an unnatural sexual  
5 interest in children. He has never stated anywhere  
6 that the absence of those things makes it less likely  
7 that he is a pedophile. And, um, he's not someone  
8 qualified even to give that kind of an opinion.

9 THE COURT: Well, while I think the profile  
10 search warrant is common, it isn't necessarily set in  
11 stone. If a person has child pornography in his or her  
12 possession, then possibly, unless it was, you know, I  
13 just moved in, it's because they like child  
14 pornography. But the absence of child pornography  
15 doesn't necessarily mean the absence of intent. It's  
16 not true that all pedophiles have child pornography and  
17 all people who are not pedophiles do not.

18 Um, your objection's noted. I thank you for  
19 the legal reasoning. Um, the objection is sustained.

20 MR. CLARK: okay. The next line of inquiry  
21 that I would ask --

22 THE COURT: Go ahead.

23 MR. CLARK: Do you want to take a break?

24 THE COURT: No. Go ahead.

25 MR. CLARK: Um, that Mr. -- I was going to ask  
26 the officer did Mr. Chandler voluntarily surrender or  
27 give consent for his computer and cell phone to be  
28 searched. The reason being that that's absence of

1 consciousness of guilt. That's why I would ask that  
2 question.

3 THE COURT: Okay. I agree it's relevant.  
4 It's sort of the consciousness of guilt flipped  
5 around. Is there a stipulation?

6 MS. FILO: Yes, I believe that's what the  
7 officer would say.

8 THE COURT: Okay, I'll accept the stipulation.

9 MS. FILO: Is that right, Officer Pierce?

10 THE WITNESS: Correct.

11 MR. CLARK: The next area of inquiry would be  
12 that, when Officer Pierce learned that Mr. Chandler had  
13 minor children, he went to the daycare where these  
14 children, um, attended, that he inquired of the  
15 supervisors and others whether Mr. Chandler did  
16 anything inappropriate with those children. And the  
17 answer to that is that no one made a complaint or  
18 suggested that Mr. Chandler was inappropriate with  
19 children in that setting. Therefore, that would negate  
20 the specific intent that Mr. Chandler had a prurient  
21 interest in children or a sexual interest in children.

22 THE COURT: Do you wish to be heard?

23 MS. FILO: Your Honor, there's no allegation  
24 that Mr. Chandler has molested every child he's ever  
25 run across. We've identified specific victims. And  
26 those are the victims that are charged, so I would  
27 argue that it's irrelevant.

28 THE COURT: Well, this seems to me to fit the

1 facts of People versus Stoll, S-T-O-L-L, when the  
2 people said I never had a problem with him. That  
3 apparently comes in.

4 MS. FILO: The People will stipulate that  
5 Officer Pierce went to, um, went to the school of  
6 Mr. Chandler's children and inquired there whether any  
7 believed act of molestation occurred.

8 THE WITNESS: I did not. Someone in the  
9 office did. I never went to a preschool. It was other  
10 people in the office.

11 BY MR. CLARK:

12 Q. Under your direction?

13 A. No.

14 THE COURT: You have no personal knowledge of  
15 what the people at the daycare said?

16 THE WITNESS: No, I didn't go to the daycare.  
17 Can I explain?

18 THE COURT: Sure.

19 THE WITNESS: So my Sergeant Lombardo, he was  
20 facilitating this whole investigation so someone that  
21 he assigned went out to the daycare. I didn't assign  
22 anybody. I didn't go to daycare. It was someone else  
23 from the office.

24 THE COURT: I can't allow it because this  
25 witness has no personal knowledge.

26 BY MR. CLARK:

27 Q. As part of your investigation, did you find in  
28 any other setting anyone saying that Mr. Chandler was

1 inappropriate or had a sexual interest in children? In  
2 other words, at the daycare. You're the case officer,  
3 the investigating officer, correct?

4 A. To my knowledge, I don't think they found  
5 anybody at the daycare.

6 Q. Who had any concern with Mr. Chandler around  
7 those children?

8 A. That's correct.

9 Q. And that the next area of -- so I think we've  
10 stipulated that the door in Mr. Chandler's classroom  
11 depicted in Defense A and B, that door adjoins to a  
12 different classroom, correct?

13 A. Correct.

14 Q. We've stipulated there's no lock on the door  
15 between the two classrooms, correct?

16 A. Correct.

17 MS. FILO: The People have stipulated to that.

18 THE COURT: Right.

19 MR. CLARK: Okay.

20 BY MR. CLARK:

21 Q. And that, therefore, you believe that the  
22 molest occurred in that setting. Do you believe that?

23 THE COURT: What's the line of inquiry?  
24 What's the offer of proof?

25 MR. CLARK: I suppose that's more  
26 argumentative. That part of this investigation of  
27 which Officer Pierce was the investigating officer,  
28 that he interviewed over 65 former and current students



1 of Mr. Chandler, that of those 65 children, many  
2 described participating in the games or demonstrations  
3 that have been articulated by the five people  
4 testifying, both boys and girls participated and that  
5 that's a fact. Therefore, a significant number of  
6 children participated in this game and demonstration,  
7 and that it would be relevant that, of the 65, the five  
8 people here today that were subjected to cross  
9 examination are the people that were picked to be  
10 victims.

11 THE COURT: What do you mean, "picked to be  
12 victims"?

13 MR. CLARK: Well, in other words, 65 children  
14 were interviewed in this investigation. Many of the  
15 children described participating. And I'd ask -- this  
16 is offer of proof -- that we participated in this game  
17 and he did these very similar things to us, okay?

18 THE COURT: Are you offering it to negate an  
19 element of the crime?

20 MR. CLARK: Yes. It negates the specific  
21 intent that the touching was done for sexual interest.

22 THE COURT: Okay. Any other purpose?

23 MR. CLARK: No.

24 THE COURT: Response?

25 MS. FILO: I'll submit it, Your Honor. Again,  
26 there's just no allegation that he molested every child  
27 he came across. I'm happy to stipulate that a number  
28 of children --

1 MR. CLARK: I think my argument's a little  
2 more nuanced than that. It's not that he molested  
3 every child that he had come across. He just said that  
4 he does the demonstration with 65 children, numerous  
5 amounts of children, but these are considered  
6 molestation and those are not. So it's not that he  
7 molested everybody; it's that this demonstration, in  
8 and of itself, is not child molestation.

9 THE COURT: Um, I appreciate the argument, but  
10 when adults at the preschool say, I have experienced  
11 this defendant and he's never done anything, that's one  
12 thing. When children say, I played the game and he  
13 never did it to me, that doesn't necessarily prove that  
14 he, the defendant, didn't have a specific intent  
15 towards other children.

16 The absence of inappropriate activity by the  
17 defendant with other people in the age group doesn't  
18 necessarily mean that he didn't have a preference; it  
19 just means that he didn't act on it. That's a  
20 perfectly reasonable conclusion from the evidence.

21 MR. CLARK: My argument isn't necessarily  
22 that. My argument is that, if you take the same  
23 demonstration for child A and that child said he did X,  
24 Y, Z, and that's not child molest, then you take child  
25 B and said he did X, Y, and Z, and say that's child  
26 molest, to me that's a little different than suggesting  
27 that he molested every child he comes in contact with.  
28 That's what it would be offered for. And I'll submit

1 it on that.

2 MS. FILO: My very brief response to that  
3 would be I do not believe there were, I believe the  
4 other children that Mr. Clark is referring to performed  
5 the demonstration or were involved in the demonstration  
6 in class. There, you know, were, theoretically, 28  
7 other witnesses. It's not analogous. It's not the  
8 same game is the idea.

9 THE COURT: My conclusion from listening to  
10 the five complaining witnesses is that there were two  
11 types of games, one that occurred in front of the whole  
12 class which appears to be legitimate and one that  
13 occurred one on one with very different activities. So  
14 I already know that from the witnesses that the game  
15 took place in front of the class which appears to be  
16 legitimate. I have that.

17 And if this officer interviewed lots of other  
18 people who's confirmed that, it's cumulative and, um,  
19 not particularly probative and there's an undue  
20 consumption of time so I'll exclude it under 352.

21 MR. CLARK: Could I make a further statement  
22 for the record?

23 THE COURT: Please.

24 MR. CLARK: It's not that these 60-plus  
25 children described only doing it in the front of the  
26 class, they also did it individually. So there would  
27 be that argument as well and I'll submit it on that.

28 THE COURT: What do you mean "individually"?

1 MR. CLARK: Just that they participated  
2 individually in a similar fashion.  
3 THE COURT: In front of the class?  
4 MR. CLARK: No, by themselves.  
5 THE COURT: With the defendant?  
6 MR. CLARK: Yes.  
7 THE COURT: Alone.  
8 MR. CLARK: Yes.  
9 THE COURT: Any response?  
10 MS. FILO: Your Honor, I am aware of one  
11 other, maybe two other children that were interviewed,  
12 um, who gave statements that they were with  
13 Mr. Chandler in a classroom. I think I could submit  
14 that name to the court under seal or I could identify  
15 them for counsel. I'm only aware of, I think, two  
16 others.  
17 MR. CLARK: Your Honor, I'm going to submit  
18 it.  
19 THE COURT: Thank you.  
20 MS. FILO: And both of those children, just  
21 for the record as far as I know, were in the classroom  
22 with other students who have now been identified as  
23 victims.  
24 THE COURT: Okay.  
25 MR. CLARK: Um, that -- can I keep going?  
26 THE COURT: Sure.  
27 MR. CLARK: Um, that Officer Pierce did  
28 indicate he interviewed a witness named Pedro who was a

1 parent assisting in the class who observed Mr. Chandler  
2 doing the game involving the blindfold, giving the  
3 child food, and Mr. Chandler putting food on their  
4 tongue in front of a parent and I believe that was in a  
5 one-on-one-type setting.

6 THE COURT: Thank you. Um, I think the  
7 probative value of this evidence is slight in  
8 comparison to all the evidence before me and would  
9 require an undue consumption of time. Is there another  
10 area?

11 MR. CLARK: Yes. Part of this investigation  
12 involved the interview of a female who I believe was  
13 discussed here, um, in court. Can I say her name?

14 THE COURT: Why don't you use initials.

15 MR. CLARK: A. We've had a few A.'s and that  
16 that individual peaked through the mask and did not see  
17 any sexual activity such as Mr. Chandler's penis, that  
18 she was actually getting, this was a one-on-one-type of  
19 setting, that she peaked through the mask and saw the  
20 items that were food items that were placed in an  
21 individual setting, um, and was not his penis.

22 MS. FILO: Can you just give me a page  
23 reference?

24 THE COURT: We'll take a brief recess while  
25 you compare notes on this. Thank you.

26 (A recess is taken.)

27 MR. CLARK: May I get Mr. Schumb?

28 THE COURT: Sure.

1 All right. Um, Mr. Schumb is present. So the  
2 offer of proof was that part of the investigation is  
3 this officer interviewed a child we'll call A-2 and  
4 that A-2 peaked through the mask, did not see anything  
5 consistent with the defendant's penis, but did see  
6 food. What else about that offer of proof?

7 MR. CLARK: That was it.

8 MS. FILO: Your Honor?

9 THE COURT: Was this in front of the entire  
10 class or one on one?

11 MR. CLARK: I think Ms. Filo is raising her  
12 hand.

13 MS. FILO: The only reason is to say this  
14 officer didn't take that statement. He would be the  
15 inappropriate witness anyway.

16 MR. CLARK: Your Honor, I will -- we did  
17 subpoena the officer that took that statement, um, so I  
18 think that there would be two levels of inquiry. One  
19 is as the investigating officer on the case, he's  
20 familiar, you know, he's overseeing the entire case.  
21 If he's aware of a situation where a child was  
22 blindfolded by themselves, they peaked through the  
23 mask, that, um, there's nothing, there's not a penis.  
24 It's food that is consistent with the defense theory  
25 that would be relevant, even if he didn't do the  
26 interview of the witness because of his opinions and  
27 conclusions as the investigating officer.

28 THE COURT: My problem is the hearsay rule

1 which allows only one level of hearsay and he can't  
2 give it -- no offense -- because he's not the officer  
3 who did the interview. However, is there a stipulation  
4 that some officer did the interview and that was the  
5 content of the interview?

6 MS. FILO: I think so, Your Honor. I didn't  
7 really -- let me look at it really quickly.

8 I will stipulate that she did give a statement  
9 to the San Jose Police Department, that she was able to  
10 peak underneath the mask and did not describe anything  
11 consistent with a penis.

12 THE COURT: Did she describe food?

13 MS. FILO: She did, but she also described  
14 other items.

15 THE COURT: What other items?

16 MS. FILO: A key, a balloon, and then she  
17 described an item, um, which she said was an eraser,  
18 but when questioned about that, she was, um, less  
19 definitive.

20 THE COURT: All right. Is there a stipulation  
21 from the defense that that can come in?

22 MR. CLARK: Yes.

23 THE COURT: I'll accept the stipulation.  
24 Thank you.

25 MR. CLARK: Nothing further by the defense in  
26 terms of offer of proof.

27 THE COURT: All right, thank you. May this  
28 witness resume his seat?

1 MS. FILO: Yes.

2 THE COURT: Thank you, sir.

3 THE WITNESS: Thank you, Your Honor.

4 THE COURT: Um, I forgot to ask the People if  
5 the people rest?

6 MS. FILO: We rest.

7 THE COURT: Does the defense have any  
8 additional evidence to present?

9 MR. CLARK: No, Your Honor.

10 THE COURT: All right, thank you. I'll hear  
11 any, um, closing argument from the People.

12 MS. FILO: Your Honor, I would submit it  
13 unless the court has any specific questions about any  
14 specific count.

15 THE COURT: Thank you. I'll hear closing  
16 argument from the defense.

17 MR. CLARK: Yes, Your Honor, we would ask for  
18 a no holding order as to count four as a matter of  
19 law. I'm sorry -- well, as to the person listed as  
20 Victim L. which was the one that we had the discussion  
21 about relative to the feet, that there's insufficient  
22 evidence in two areas. One is that the touching  
23 described by Victim L. was not done by Mr. Chandler,  
24 his hands, but it was rather done by other objects over  
25 her socks. And that, I don't believe, as a matter of  
26 law, that if you touch a child with another object,  
27 unless you otherwise qualify for a different sexual  
28 offense, that that, besides your hands through the



1 clothing, that can qualify as a 288. It would be more  
2 of a 647.6, assuming you felt that was for sexual  
3 purposes.

4 I believe that, under those circumstances, she  
5 described that she was touched by an object and what it  
6 was. And Mr. Schumb developed that, but that's not  
7 sufficient for a 288 holding. And I'd ask that be set  
8 aside on those grounds.

9 THE COURT: Hold that thought.

10 Okay. Do the people wish to be heard?

11 MS. FILO: Um, Your Honor, I believe that  
12 Ms. L. testified that the defendant rubbed something on  
13 her feet, um, she said she didn't know what it was, but  
14 she described it as round, um, she said she thought  
15 maybe it was a glue stick because she saw a glue stick  
16 on the table after the incident was over, but she  
17 described it, I think, as smooth, hard and kind of  
18 bumpy on the bottom. I think that, in combination with  
19 the other evidence we heard that we've heard in the  
20 case, is certainly probable cause to believe, um, that  
21 the defendant was using his penis or some other part of  
22 his own body in connection with the incident. I think  
23 that's what 288 requires, and I think we've satisfied  
24 the elements.

25 THE COURT: Well, I'm looking at the CalCrim,  
26 um, 1110. It says the People must prove that the  
27 defendant willfully touched any part of child's either  
28 on their bare skin or through their clothing. Um, and

1 then there's an alternative that the defendant caused a  
2 child to touch his own body, the defendant's body or  
3 the body of someone else either on bare skin or through  
4 clothing. I don't see any distinction between direct  
5 touching and using an object.

6 If I would make such a distinction, it would  
7 be odd because penetration with a foreign object would  
8 not be a crime on the theory that the object, whatever  
9 it was, was being inserted into some opening of the  
10 child was not offensive because it was an object  
11 instead of a hand, so lacking any case law to guide me  
12 on that --

13 MR. CLARK: I don't mean to interrupt the  
14 court.

15 THE COURT: Go ahead.

16 MR. CLARK: That's a separate crime and that  
17 was the point of my argument was that, if you used an  
18 object in such a fashion, you would be potentially  
19 committing another crime. If you inserted an object  
20 into a child's vagina or something like that, it would  
21 stick. But the point I'm making is that the People  
22 selected the crime as a 288. I don't believe that if  
23 you touch a child with an eraser that that could be a  
24 288. And I believe the evidence was pretty clear that  
25 Victim L. said she knew what it was, it was a glue  
26 stick, etcetera, so we'd have to assume for sake of  
27 argument that if you touch a child's foot with a glue  
28 stick that that's sufficient for a 288.

1 I don't dispute that if you touched a glue  
2 stick in a child's vagina that that would be a separate  
3 crime as the court just described.

4 MS. FILO: I actually agree with the court. I  
5 think that the case law I'm familiar with is more in  
6 the nature of a battery or assault or something like  
7 that which says that, if you use an object that's so  
8 closely connected to the body, that would be like the  
9 body if you, um, it is, I mean, it's his, it's his arm,  
10 his hand using the object. But, again, it would be my  
11 argument to the court that I think she described an  
12 object with, um, that the court could reasonably  
13 interpret to be part of the defendant's own body.

14 That may be the witness' assumption of what it  
15 was, but in connection with all the other evidence that  
16 we've heard, I think, um, certainly the court could  
17 conclude it was something other than a glue stick.

18 THE COURT: The language of the statute itself  
19 said any person who willfully committed a lewd and  
20 lascivious act, including any of the facts constituting  
21 other crimes upon or with the body or any part of a  
22 child under the age of 14.

23 That statute doesn't talk to about touching.  
24 That's the committee who writes these jury  
25 instructions, certainly their own two cents' worth. I  
26 appreciate the argument. Um, it might be an  
27 interesting 995 issue.

28 Um, is there anything else from either

1 counsel?

2 MR. CLARK: Yes, Your Honor. I ask for no  
3 holding order as to the entire case based on the issue  
4 of specific intent to commit a sexual act on a child.  
5 I believe after all of the cross examination in this  
6 case that there is insufficient evidence. Obviously, I  
7 was limited in what I could ask Officer Pierce, but  
8 insufficient evidence of a sexual intent. Um, when you  
9 do look into this, and I understand we're getting into  
10 argument now, um, that it's an awfully strange place to  
11 molest a child when you have access to children  
12 everywhere right in front of a door that opens into an  
13 adjoining classroom during class time when school is in  
14 session. And I think that's inconsistent with someone  
15 who's committing a child molest, but, rather, is more  
16 consistent with someone who's involved in doing this  
17 demonstration as a lesson.

18 And so when you couple the illogical nature of  
19 that with the fact that, based on offers of proof that  
20 Mr. Chandler never acted inappropriately in any  
21 children in any other setting. I mean, that's just  
22 illogical and I think that the more logical inference  
23 from the evidence is that there was not a sexual intent  
24 with respect to the touching that's alleged here.

25 THE COURT: Go ahead.

26 MS. FILO: Your Honor, um, I think, when you  
27 compare that evidence to the weight of the evidence  
28 that has been presented by the People, it is, um,

1 willfully and adequate to overcome a probable cause  
2 finding on the elements of the offenses that have been  
3 charged.

4 THE COURT: Thank you.

5 I have listened to the children. And I  
6 watched them. And I have considered their testimony  
7 very carefully. It concerns me that there was an  
8 activity in front of the entire class that probably was  
9 legitimate, asking children to explore their senses,  
10 other than sight or sound. But it also is very much  
11 like grooming behavior to get the children used to the  
12 idea of being blindfolded, used to the idea of the  
13 teacher putting things in their mouth, used to the  
14 whole idea that this is okay. Um, the sexual intent, I  
15 think, is clear.

16 Certainly for the burden of proof that I have  
17 in that I have in this preliminary examination, it  
18 appears to me that the following offenses have been  
19 committed and there's sufficient cause to believe the  
20 defendant, Craig Richard Chandler, guilty thereof:

21 A felony violation of Penal Code Section  
22 288(a) against Jane Doe 1 as charged in count one;

23 A violation of 288(a) against Jane Doe 2 as  
24 charged in count two;

25 A violation of 288(a) against Jane Doe 3 as  
26 charged in count three;

27 A violation of 288(a), a felony, as charged in  
28 count four;

1 And a violation of 288(a) against Jane Doe 5  
2 as charged in count five.

3 Um, I find that there's probable cause to  
4 believe the allegations of multiple victims within the  
5 meaning of Section 667.6(1)(b) and 667.1(e) as charged  
6 in all five counts are true.

7 I therefore order that Mr. Chandler be held to  
8 answer for the same. Bail and custody will remain as  
9 set.

10 MR. CLARK: Your Honor, I'd like -- before the  
11 court certifies to the next level, I'd like to address  
12 the issue of bail and make a bail request in this case.

13 THE COURT: Go ahead.

14 MR. CLARK: I am aware of what the bail  
15 schedule is. However, Mr. Chandler is an individual  
16 with virtually no criminal history. I believe he had  
17 misdemeanor when he was 18 years old, that, um, he came  
18 to the police department, gave a statement. He was  
19 released from custody by Officer Pierce. He did not  
20 flee, um, so he was aware of the allegations. He did  
21 not flee, so I don't believe he's a flight risk. He's  
22 married with three children. He's no longer a  
23 teacher. He's been removed from that capacity. Um,  
24 the comments that I made relative to the specific  
25 intent issue are that the, the court made its holding  
26 order and I respect that, but that the only place where  
27 this occurred, if the court believes that that  
28 occurred, was in the classroom of which he's no longer

1 there.

2 The interaction that he's had with children  
3 that was investigated by Officer Pierce, um, there is  
4 no evidence that he's committed any act on any other  
5 children, um, that he's, I'm asking to have a bail set  
6 in the amount of \$300,000, plus Mr. Chandler would  
7 abide by any additional conditions of SORP such as  
8 wearing an ankle bracelet, a G.P.S. device, um,  
9 reporting, um, doing any other things that the court  
10 would request.

11 Um, this is obviously a very unusual case that  
12 is very defensible, that him being in custody while  
13 this case is pending is putting him at a significant  
14 disadvantage if he's not a danger to the community  
15 and/or a flight risk. And I think the evidence is  
16 that, if you believe something happened in the  
17 classroom, that it's still never been clear to me what  
18 the People are contending exactly happened, but that  
19 he's no longer there. He, um, is not accused of  
20 molesting children in other capacities, that he's not a  
21 flight risk. He's got ties to the community. And we  
22 would ask for a bail in the amount \$300,000 combined  
23 with any additional terms of supervised O.R., including  
24 G.P.S., not to reiterate myself.

25 MS. FILO: Your Honor, scheduled bail in this  
26 case is no bail, um, and there would have to be some  
27 showing of a change of circumstance on behalf of the  
28 defense in order to move from the scheduled bail, I'm

1       sorry, from previously set bail. There has been a  
2       change in circumstance and it is one that aggravates  
3       the defendant's situation, not mitigates it, in my  
4       opinion. So the defendant has now been held to  
5       answer. The court has found there's probable cause to  
6       believe that these crimes were committed and no change  
7       in bail should be warranted at this time.

8               MR. CLARK: Your Honor, if I may just follow  
9       up? In terms of this change-in-circumstance issue, we  
10      have never requested a bail. We specifically didn't  
11      request a bail, so there's never been a finding, other  
12      than the initial magistrate setting bail at bail  
13      schedule, so to say that somehow another judge took a  
14      look at this and said it should be a no bail case. Um,  
15      and I do believe no bail in this type of situation  
16      raises Eighth Amendment concerns, um, and I believe,  
17      even in homicide cases, you're entitled to a bail, so  
18      just to say that, well, that's the bail schedule isn't  
19      the end of the inquiry.

20             I think that what's been developed here is  
21      significantly different than the 228's that you commonly  
22      see. So to somehow say that you would have to undue  
23      what another magistrate's already done, we've never  
24      asked for this, before. We specifically didn't ask for  
25      it until all of these issues were developed. And the  
26      issue about flight was never addressed. Mr. Chandler,  
27      as I mentioned was interviewed by the police and was  
28      put on notice of this investigation and he didn't



1 leave. Um, and so they've never considered the other  
2 issues of ties to the community, um, those kinds of  
3 things. And I think people are entitled to bail under  
4 the Eighth Amendment. Um, and we're asking for a  
5 reasonable bail, significantly in an amount to show  
6 that he'll come back to court and any other terms and  
7 conditions that would assure his appearance in court  
8 and the safety of the community. And I think we can  
9 fashion such an order.

10 THE COURT: Do you wish to be heard further?

11 MS. FILO: Submitted.

12 THE COURT: All right. One of the purposes of  
13 bail is public safety. And I'm concerned that this was  
14 a so-called isolated incident. It was repeated  
15 behavior over two school years with multiple  
16 complaining witnesses. Um, that is a great concern to  
17 me. Also the schedule is no bail. Um, and I don't see  
18 any reason to depart from the scheduled, absent some  
19 sort of very unusual circumstance.

20 Um, and, also, although the defendant is  
21 facing five counts now, I heard more than that. And if  
22 the People choose to charge more than that under the  
23 theory that they are, um, transactionally related and  
24 the People can support that with case law, if anything,  
25 Mr. Chandler's situation is just worsened considerably.  
26 That's not up to me. I just raise that as an issue.

27 The motion to reduce bail is denied without  
28 prejudice. Some other judge may feel differently or

1 analyze this case differently from the way I do.  
2 May we have an arraignment date please.  
3 COURT CLERK: June 4th at 1:30, Department 24.  
4 THE COURT: Thank you.  
5 COURT CLERK: Judge, are the People's Exhibit  
6 4 and Defense Exhibit D admitted?  
7 THE COURT: D was admitted. And People's 4?  
8 MR. CLARK: What is that?  
9 THE COURT: Was there a 4?  
10 MS. FILO: I think People's 4 was the D.N.A.,  
11 the crime lab material.  
12 MR. CLARK: That was a court exhibit.  
13 THE COURT: I'll return it to the People.  
14 That was a court exhibit.  
15 MR. CLARK: We would ask to have the resume,  
16 if there's no objection, made part of the record.  
17 THE COURT: All right. Is there any  
18 objection?  
19 MS. FILO: No, Your Honor.  
20 THE COURT: Okay, fine. Then, um, People's 4  
21 is entered. And the exhibits are returned to the  
22 moving parties. Thank you very much.  
23 MS. FILO: Thank you, Your Honor.  
24 -oOo-

1 State of California )  
2 County of Santa Clara ) SS.  
3

4 I, Denise M. Nebolon, do hereby certify that:

5 I am an Official Court Reporter of the  
6 superior court of the State of California in and for  
7 the County of Santa Clara; and that, as such, I  
8 reported in stenotype and thereafter transcribed  
9 through computer-aided transcription as herein appears  
10 the above proceedings and that the same is a full,  
11 true, and correct transcription of said stenotype as  
12 reported by me to the best of my ability.

13 I further certify that I have complied with  
14 Code of Civil Procedure Section 237(a)(2) in that all  
15 personal juror identifying information has been  
16 redacted, if applicable.

17 Dated: June 3, 2012

18   
19

20 Denise M. Nebolon, CSR 9344  
21  
22  
23  
24  
25  
26  
27  
28

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA  
SAN JOSE FACILITY

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

CRAIG RICHARD CHANDLER (10/25/1976), 1K  
1361 N. SAN PEDRO STREET, SAN JOSE, CA 95110

Defendant(s).

*C1223754*  
FELONY COMPLAINT  
CASE SUMMARY

DA NO: 120100927  
CEN  
12001535 CRC HELD 01/13/2012

**PROTECTIVE ORDER**

CASE SUMMARY

Count	Charge	Charge Range	Defendant	Allegation	Alleg. Effect
1	PC288(a)	3-6-8	Craig Richard Chandler	PC667.61(b)/(e)	15-life
2	PC288(a)	3-6-8	Craig Richard Chandler	PC667.61(b)/(e)	15-life

**P.C. 1048  
PRIORITY**

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA  
SAN JOSE FACILITY

**FILED**  
JAN 13 2012

DAVID H. YAMASAKI  
Chief Executive Officer/Clerk  
Superior Court of the County of Santa Clara  
DEPUTY

THE PEOPLE OF THE STATE OF CALIFORNIA,  
Plaintiff,

C1223754  
FELONY COMPLAINT

vs.

DA NO: 120100927  
CEN  
12001535 CRC HELD 01/13/2012

CRAIG RICHARD CHANDLER (10/25/1976), 1K  
1361 N. SAN PEDRO STREET, SAN JOSE, CA 95110

Defendant(s).

**PROTECTIVE ORDER**

The undersigned is informed and believes that:

**COUNT 1**

On or about and between December 1, 2011 and January 6, 2012, in the County of Santa Clara, State of California, the crime of LEWD OR LASCIVIOUS ACT ON A CHILD UNDER FOURTEEN, in violation of PENAL CODE SECTION 288(a), a Felony, was committed by CRAIG RICHARD CHANDLER who did willfully and lewdly commit a lewd and lascivious act upon and with the body and certain parts and members thereof of Jane Doe 1, a child under the age of fourteen years, namely, 7, with the intent of arousing, appealing to and gratifying the lust, passions, and sexual desires of the defendant(s) and of the child.

A conviction of the offense charged in this count requires the defendant to register pursuant to Penal Code section 290.

(CJIC-1KSX) It is further alleged that the defendant, CRAIG RICHARD CHANDLER, multiple victims, within the meaning of Penal Code sections 667.61(b) and 667.61(e).

**P.C. 1048  
PRIORITY**

**COUNT 2**

On or about and between October 1, 2011 and November 1, 2011, in the County of Santa Clara, State of California, the crime of LEWD OR LASCIVIOUS ACT ON A CHILD UNDER FOURTEEN, in violation of PENAL CODE SECTION 288(a), a Felony, was committed by CRAIG RICHARD

518

CHANDLER who did willfully and lewdly commit a lewd and lascivious act upon and with the body and certain parts and members thereof of Jane Doe 2, a child under the age of fourteen years, namely, 7, with the intent of arousing, appealing to and gratifying the lust, passions, and sexual desires of the defendant(s) and of the child.

A conviction of the offense charged in this count requires the defendant to register pursuant to Penal Code section 290.

(CJIC-1KSX) It is further alleged that the defendant, CRAIG RICHARD CHANDLER, multiple victims, within the meaning of Penal Code sections 667.61(b) and 667.61(e).

**REQUEST FOR TRIAL PRIORITY PURSUANT TO PENAL CODE § 1048**

The case charged above falls within the provisions of Penal Code section 1048, and the People therefore respectfully request that the case be given the trial priority provided by that section.

Any defendant, including a juvenile, who is convicted of and pleads guilty and no contest to any felony offense, including any attempt to commit the offense, charged in this complaint or information is required to provide buccal swab samples, right thumbprints and a full palm print impression of each hand, and any blood specimens or other biological samples required pursuant to the DNA and Forensic Identification Database and Data Bank Act of 1998 and Penal Code section 296, et seq.

Further, attached and incorporated by reference are official reports and documents of a law enforcement agency which the complainant believes establish probable cause for the pretrial restraint of defendant CRAIG RICHARD CHANDLER, for the above-listed crimes.

Complainant therefore requests that the defendant(s) be dealt with according to law.

I certify under penalty of perjury that the above is true and correct.

Executed on January 12, 2012, in SANTA CLARA County, California.

Pierce 3415

Pierce 3415

(Pierce 3415)

SJPD (408) 277-4102 120090244 S

FEIN/ D367/ FELONY/ EG





d.fox

1 STEVEN CLARK, Bar No. 110351  
 2 THE LAW OFFICES OF STEVEN CLARK  
 3 10 Almaden, Suite 1250  
 San Jose, California 95113  
 (408) 271-3245

4 CHRISTOPHER E. SCHUMB, Bar No. 116828  
 5 THE LAW OFFICES OF CHRISTOPHER E. SCHUMB  
 6 10 Almaden, Suite 1250  
 San Jose, California 95113  
 (408) 271-3245

7 Attorneys for Defendant  
 8 CRAIG RICHARD CHANDLER

**FILED**

JAN 19 2012

DAVID H. YAMASAKI  
 Chief Executive Officer/Clerk  
 Superior Court of Santa Clara  
 BY Kelly Biggi DEPUTY

Kelly Biggi

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 FOR THE COUNTY OF SANTA CLARA

14 PEOPLE OF THE STATE OF  
 15 CALIFORNIA

16 Plaintiff,

17 v.

18 CRAIG RICHARD CHANDLER,

19 Defendant.

Case No. C1223754

NOTICE OF MOTION, APPLICATION  
 TO EXPUNGE UNFILED DOCUMENT  
 FROM THE COURT FILE, OR IN  
 THE ALTERNATIVE, SEAL FILE;  
 MEMORANDUM OF POINTS AND  
 AUTHORITIES  
 Date: January 20, 2012  
 Time: 10:30 a.m.  
 Department 30  
 The Honorable Phillip  
 Pennypacker

22 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD, you are hereby  
 23 notified that Defendant will seek an order excluding the document  
 24 identified below or in the alternative, an order sealing the  
 25 record as to the document identified below, on or before January  
 26 20, 2012, at 10:30 a.m. in Department 30, of the Santa Clara  
 27 Superior Court, located at 190 W. Hedding Street, San Jose,  
 28 California, 95110. The motions are based upon this Notice,

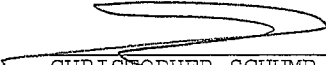
CHRISTOPHER SCHUMB  
 ATTORNEY AT LAW  
 10 Almaden Blvd., Ste. 1250  
 San Jose, CA 95113  
 Telephone (408) 271-3245

App. to Seal File

-1-

Application and Memorandum of Points and Authorities, and on the documents contained in the Court File and the oral arguments of counsel.

Dated: January 18, 2012

  
CHRISTOPHER SCHUMB  
Attorney for Defendant

I. STATEMENT OF FACTS

This case alleges two violations of Penal Code section 288(a) and alleges the 15 year to life enhancement under Penal Code section 667.61(b). Insuring that Defendant receives a fair trial is of paramount importance to all parties.

Typically, all police reports, statements and other evidence are not placed in a Court File. In the case a bar, a three page "Filing Report" was apparently placed in the Court File by the District Attorney's office or the San Jose Police Department. The "Filing Report" does not bear a file stamp, and has a 1054.2 prohibition stamp on it face.

From the defense point of view, it contains an incomplete and biased synopsis of some of the allegations against the Defendant. In particular, it fails to set forth the defendant's statement to the Police Officers denying the allegations.

When defense counsel noticed the "Filing Report" in the Court File at the arraignment on January 13, 2011, they moved to seal the Court File as to that document, which the Court granted without prejudice.

It is believed that the "Filing Report" was placed in the Court File so the Court could consider it in the event that Defendant made a motion for bail, which has not happened.

## II. LEGAL DISCUSSION

Only documents that are appropriate to be filed and then actually filed by the court clerk, should be maintained in the Court's File. In order to be part of the Court File, a document must be presented to a court clerk, file endorsed and then placed in the file. Rules of Court 1.20(a) In order to be filed, the document must be in a proper format, Rules of Court 2.100 et seq. It must be on lined pleading paper (Rules of Court 2.108) it must have a properly formatted first page setting forth the caption of the action and the nature of the pleading (Rules of Court 2.111), it must have a proper footer (Rules of Court 2.110) and so forth. Any papers that are presented for filing that are not in the proper format, must be rejected by the clerk. Rules of Court 2.118(a)

In the case at bar, the document entitled "Filing Report" appears to be a declaration, and is clearly not the proper format for the reasons stated above. If it was presented to the court clerk for filing, it should have been rejected at the outset. If it was not presented to the court clerk, it never should have been placed in the Court File, for only the court clerk can do this. In addition, since there is no bail motion pending, the document is superfluous and unnecessary, and should be excluded on that ground as well.

If the Court finds that despite the foregoing defects, the document should be kept in the Court File, the defense requests that the Court File be sealed as to the three page document entitled "Filing Report", pursuant to Rules of Court 2.550 et

1 seq. The factual bases for this application are that the police  
 2 department has issued a press release in this case in an effort  
 3 to publicize it. The media has responded with numerous  
 4 television and print stories about the defendant and the  
 5 allegations. The arraignment hearing was televised, which is  
 6 likely to continue with subsequent hearings. The pre-trial  
 7 publicity will necessarily contaminate the jury pool and deprive  
 8 defendant of a fair trial. There is no reason to file the  
 9 "Filing Report" because no motion for bail has been made. The  
 10 "Filing Report" is akin to a search warrant affidavit which is a  
 11 document that is routinely sealed People v. Hobbs (1994) 7  
 12 Cal.4th 948.

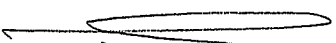
### 13 III. CONCLUSION

14 The "Filing Report" was never actually filed since it bears  
 15 no file stamp, and thus should not be kept in the Court File. If  
 16 it was actually presented to the court clerk for filing, it  
 17 should have been rejected at the outset, and should therefore be  
 18 expunged from the file because it does not comply with the  
 19 requirements of a declaration under the Rules of Court. If the  
 20 document is properly in the Court File, then the over-riding  
 21 interest that defendant receive a fair trial and the lack of  
 22 prejudice to any party supports an order sealing the file; there  
 23 being no less restrictive means to achieve that interest. If the  
 24 Court finds need to seal the file as to the "File Report" then  
 25 Defendant requests that the Court make the express findings  
 26 required under NBC Subsidiary Inc. v. Superior Court (1999) 20

Cal.4th 1178, 1208-09, and issue an order sealing the three pages  
comprising the "Filing Report".

Respectfully submitted,

Dated: January 18, 2012

  
CHRISTOPHER E. SCHUMB  
Attorney for Defendant

PROOF OF SERVICE**FILED**

JAN 19 2012

I, STEVEN CLARK, hereby declare and state: **DAVID H. YAMASAKI**  
Chief Executive Officer/Clerk  
Superior Court of CA County of Santa Clara

I am over the age of eighteen years, employed in the County of Santa Clara, California, and not a party to the within action. My business address is 10 Almaden Boulevard, Suite 1250, San Jose, CA 95113.

On January 18, 2012, I served Defendant's Notice of Motion, Application and Points and Authorities, on:

Alison Filo Esq.  
Santa Clara County District Attorney  
70 W. Hedding Street, West Wing  
San Jose, California 95110  
(408) 294-6746

[ ] (BY MAIL) I placed each such sealed envelope, with postage thereon fully prepaid for first-class, return receipt requested certified mail, for collection and mailing at San Jose, California, following ordinary business practices. I am readily familiar with the practice of CHRISTOPHER E. SCHUMB for processing of correspondence, said practice being that in the ordinary course of business, correspondence is deposited with the United States Postal Service the same day as it is placed for processing.

[ ] (BY PERSONAL SERVICE) I caused each documents to be delivered by hand to the addressee(s) noted above.

[X] (BY FACSIMILE) I caused the said document to be transmitted by Facsimile machine to the number indicated after the address(es) noted above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.  
Executed at San Jose, California.

Date: January 18, 2012



PROOF OF SERVICE

I, STEVEN CLARK, hereby declare and state:

I am over the age of eighteen years, employed in the County of Santa Clara, California, and not a party to the within action. My business address is 10 Almaden Boulevard, Suite 1250, San Jose, CA 95113.

On January 19, 2012, I served Defendant's Notice of Motion, Application and Points and Authorities, on:

Alison Filo Esq.  
Santa Clara County District Attorney  
70 W. Hedding Street, West Wing  
San Jose, California 95110  
(408) 294-6746

**FILED**  
JAN 19 2012  
DAVID H. YAMASAKI  
Chief Executive Officer/Clerk  
Superior Court of CA County of Santa Clara  
BY Kelly Biggi DEPUTY

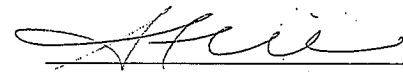
[ ] (BY MAIL) I placed each such sealed envelope, with postage thereon fully prepaid for first-class, return receipt, requested certified mail, for collection and mailing at San Jose, California, following ordinary business practices. I am readily familiar with the practice of CHRISTOPHER E. SCHUMB for processing of correspondence, said practice being that in the ordinary course of business, correspondence is deposited with the United States Postal Service the same day as it is placed for processing.

[X ] (BY PERSONAL SERVICE) I caused each documents to be delivered by hand to the addressee(s) noted above.

[ ] (BY FACSIMILE) I caused the said document to be transmitted by Facsimile machine to the number indicated after the address(es) noted above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.  
Executed at San Jose, California.

Date: January 19, 2012



L1 SAN JOSE FAC  
 170 W. HEDDING ST.  
 SAN JOSE, CA 95110  
 PEOPLE VS. CRAIG RICHARD CHANDLER  
 L.K.A. 1361 N SAN PEDRO ST  
 SAN JOSE, CA 95110  
 JUDGE HON. PHILIP H. PENNYPACKER DV: AGENCY  
 REPORTER L. SHINN CHILD: STATUS  
 DEF. ATTY. SCHIMT, CHRISTOPH(G) D.A. FILED  
 CHARGES F(001)PC288(A) F(002)PC288(A)  
 CASE NO. C1223754  
 PC: CEN 12001535  
 DATE 01/20/2012 10:30 ABPT. 30  
 10/25/1976 CAB3721090 CDY BK:Y  
 CLERK L. BALLESTEROS EBK966 M  
 HEARING FURTHER HEARING  
 APO SJ-04313-3415 -PIERCE  
 I-SET -NEA TW  
 VIOLATION DATE 01/10/2012

1-31-12 9:30 D 23-Remain as set

1-31-12 8:30 D 30

NEXT APPEARANCE

☐ Defendant Present ☐ Not Present ☒ Atty Present AR 10 CLARK AD / PD / IDO / Special App  
☐ Arr'd ☐ Adv ☐ Arr Wav ☐ Amend Comp/Info ☐ Arr ☐ Plea ☐ IDC ☐ PTC ☐ Prob / Sent ☐ Interpreter ☐ Sworn  
☐ PC977 ☐ Filed ☐ On File ☐ Repr. Adv / Wav ☐ Bail/ OR/ SORP ☐ Rect Dr Rpt ☐ FAR/ ERC ☐ Bail Apply ☐ Balance Exonerated  
☐ NG ☐ Entered by CRT ☐ NGBRI / Adv ☐ PSet ☐ Prelim ☐ Readiness ☐ S / B MTC ☐ Bail Exonerated ☐ Forfeited ☐ Bond #  
☐ Denies Priors/ Allegations/ Enhancements/Refusal ☒ Further ☐ Jury ☐ CT ☐ Pco / Def Wav Jury ☐ Reassumption Filed ☐ Forfeiture Set Aside ☐ Bail Rein  
☐ TW ☐ TNW ☐ TW / WD ☐ TW Sentence ☐ Ref'd DECISION IN CHAIR Costs Within 30 Days to Court  
☐ Ref / Appt PD / AD / IDO ☐ Conflict Decl ☐ APO / DADS/ Prop 36 ☐ P36 Re-Assmt ☐ SORP / OR ☐ Revoked ☐ Reinstated ☐ May Post & Forfeit  
☐ Relieved ☐ Appt'd ☐ Crim Proc Susp ☐ Rein ☐ BW Ordered \$ ☐ Stayed ☐ To-Issue  
☒ Hrg on Motion SENT OF POLICE REPORT ☐ No Cite Release/SCIT ☐ No Request ☐ Cash Only  
☐ Granted ☐ Denied ☒ Submitted ☐ Off Cal ☐ Subm on Report ☐ Found ☐ BW Set Aside ☐ Recalled ☐ Filed ☐ Remain Out  
☐ Stip to Comm ☐ Drs. Appointed ☐ Max Term ☐ Committed ☒ Pset of 4- Chaddock for Mercury  
☐ Prelim Wav ☐ Certified to General Jurisdiction ☐ MDA / COM Amended to ☐ NWS  
☐ Amended to ☐ (M) VC12500(a) / VC23103(a) ☐ Pur VC23103.5 ☐ DA Stmt Filed  
 PLEA Conditions: ☐ None ☐ No State Prison ☐ PC17 after 1 Yr Prob ☐ Includes VOP  
☐ Jail / Prison Term of FILED ☐ Add to Cal ☐ Vacate pending date  
☐ Dismissal / Striking NOT TO BE AVAILABLE TO PUBLIC @ THIS TIME ☐ Subm time of Sent ☐ Harvey Stip  
☐ Adv ☐ Max Pen ☐ Parole/Prob ☐ Appeal ☐ Immig ☐ Reg PC290/HS11590/PC457.1/PC186.30 ☐ Future Serious Felony ☐ PC12021/PC12316(b)(1)/VC14807.8/PC866  
☐ Wav Right to ☐ Counsel ☐ Court / Jury Trial ☐ Subpoena / Confront / Examine Witnesses ☐ Self-incrimination ☐ Written Waiver filed ☐ Plea / Absentia filed  
☐ COP ☐ GUILTY ☐ NOLO CONTENDERE to charges & admits enhancements / allegations / priors ☐ PC17 ☐ Arbuckle ☐ Factual Basis found ☐ Findings stated  
☐ Prop 36 Granted / Unamenable / Refused / Term ☐ DEJ Eligibility Filed ☐ DEJ Granted / Rein / Term. Fee \$ ☐ Guilty Plea Renderec  
☐ Waives Referral ☐ Ref'd to APO Full Rpt ☐ FINES/FEES: PAY TO ☐ Ref to DOR ☐ TRAFFIC ☐ COURT ☐ TODAY Audit #  
☐ Sent Suspended ☐ PROBATION DENIED ☐ COUNT \$ + PA \$ ☐ Purs HS11350d  
 PROBATION ☐ Execution ☐ Imposition of sentence suspended for probation period ☐ COUNT \$ + PA \$ ☐ PC290.3  
☐ COURT ☐ FORMAL PROBATION GRANTED for ☐ Days / Mos / Yrs ☐ AIDS / CPP \$ + PA \$ ☐ SORP  
☐ Report to APO within ☐ Days ☐ Terminated ☐ Upon Release ☐ DPF \$ + PA \$ ☐ EMAT \$  
☐ Perform ☐ Hrs Volunteer Work as directed PO / SAP ☐ in lieu of fine/jail ☐ LAB \$ + PA \$  
☐ Not drive w/o valid DL & Ins ☐ Adv VC23600 ☐ HTO ☐ Re-refer ☐ DRF / RF \$ + Add'l RF \$ ☐ Susp'd PC1202.44/  
☐ MOP ☐ FOP ☐ 12 hrs ☐ 3 mos ☐ 9 mos ☐ Enroll within ☐ days ☐ AEF \$ ☐ Original Fine \$  
☐ DL Susp/ Restr'd/ Rvk'd for ☐ IID Not/Ordered/ Rmv'd Term ☐ Yrs ☐ SECA \$ ☐ CTS PC2900.5 \$  
☐ No contact with victim or family / co-defts unless appr by APO ☐ PC1202.05 ☐ ICMF \$ ☐ TOTAL DUE \$  
☐ DVPO issued / mod / term'd Exp ☐ Victim Present ☐ ICIN \$ ☐ Payments Granted / Modified  
☐ No Contact ☐ Peaceful Contact ☐ DSA thru APO / DOR / CRT ☐ Filed ☐ AR \$ ☐ \$ / Mo beginning  
☐ Not own/possess deadly weapons ☐ Destroy/return weapon ☐ SHELTER \$ ☐ FINE STAYED  
☐ Stay away from ☐ DV \$ ☐ Committed @ \$ /day ☐ May Pay Out  
☐ Submit Search/Testing ☐ Educ/Voc Trng/Empl ☐ No alcohol / drugs or where sold ☐ ATTY \$ ☐ Consec/Conc to  
☐ Substance Abuse, Psych, Theft, Anger Mgmt, DV, Parenting cnsl / prgm ☐ ASF\$25/CPF\$10 ☐ Fine / Fees ☐ Deemed Satisfied ☐ Commuted  
☐ PC296 (DNA) ☐ PC1202.1 HIV Test / Education ☐ P/INVEST \$ ☐ P/SUP \$ ☐ /Mo ☐ Waived  
 VOP: ☐ Wav ☐ Arr'd ☐ Admits/Denies Viol ☐ Court Finds VOP / No VOP ☐ CJAF \$129.75/\$259.50 ☐ Add'l Fees Waived  
☐ Prob Rein / Mod / Term'd / Revoked / Remains Revoked / Ext to ☐ Restitution ☐ General \$ to  
☐ Original Terms & Conditions Except as Amended herein ☐ As determined by APO/Court ☐ Referred to VWAC ☐ Collect Civility  
☐ Co-terminous with ☐ No Further Penalties / Reviews  
 Other: WRITERS BY ATTORNEYS MAY BE SUBMITTED TO THE COURT

JAIL/PRISON ☐ See Attachm't Pg for Add'l Orders, Charges, PC1385 Reasons BY FRIDAY, 1-27-12. County Jail  
 Count F/M Violation Prison Term / Yrs Enhancement / Priors Yrs / Std / Strkn HRS / DAYS / MOS  
 FILE TO REMAIN WITH JUDGE PENNYPACKER'S ~~ORDER~~ UNTIL 1-31-12

Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Total

CTS = ☐ ACT + ☐ PC4019 ☐ 1/2 ☐ 1/4 ☐ PC2933.1 = ☐ TOTAL DAYS TOTAL TERM  
☐ Straight time ☐ In Camp ☐ WWP ☐ PC1209 Fees ☐ Waived ☐ Court Rec. ☐ All / Except ☐ EMP/PSP/ERP/DRP/Co Parole/NP 529  
☐ Sent Deemed Served ☐ Rpt to Parole w/in ☐ Adv ☐ Yrs Parole/Appeal Rights ☐ Consec ☐ Conc to  
☐ Bal CJ Susp ☐ All but ☐ Hrs/Days/Mos ☐ On Cond Complete Residential Treatment Prgm ☐ Serve Consec MO/TU/WE/TH/FR/SA/SU  
☐ Pre-process ☐ AM/PM ☐ Stay / Surrender / Transport to ☐ @ ☐ AM/PM or Sooner  
☒ REMANDED-BAIL \$ ☐ REMAIN AS SET ☐ NO BAIL ☐ COMMITTED ☐ RELEASED ☐ OR ☐ SORP ☐ JAC PHONE ASSMT ☐ P36  
☐ AS COND OF SORP ☐ BAIL INCREASED / REDUCED ☐ TO PRGM AS REC BY JAC DOC TO ARRANGE TRANSPORT UPON AVAIL BED  
 DISTRIBUTION: ORIGINAL FILE GREEN DOC BLUE CMC/DOB PURPLE PROBATION BROWN DEFENDANT



Dept 30 Box

1 T. ANDREW HUNTINGTON, Cal. Bar No. 187687  
2 General Counsel, Bay Area News Group  
3 750 Ridder Park Drive  
4 San Jose, California 95190  
5 Tel (408) 920-5790  
6 Fax (408) 920-1848  
7 ahuntington@bayareanewsgroup.com

8 Attorney for SAN JOSE MERCURY NEWS, LLC

**FILED**

JAN 24 2012

DAVID H. YAMASAKI  
Chief Executive Officer/Clerk  
Superior Court of CA County of Santa Clara  
DEPUTY

Jaymi L. Salisbury

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SANTA CLARA

PEOPLE OF THE STATE OF CALIFORNIA,

Case No. C1223754

Plaintiff,

v.

CRAIG RICHARD CHANDLER,

Defendant.

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
MOTION TO UNSEAL FILING REPORT**

Date: January 31, 2012  
Time: 8:45 AM  
Court: Department 30  
Judge: Hon. Philip Pennypacker

530

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION .....	1
II. FACTUAL AND PROCEDURAL SUMMARY .....	1
III. THE MERCURY NEWS HAS STANDING TO SEEK ACCESS TO THE FILING REPORT FILED TO SUPPORT THE PROSECUTION .....	2
IV. THE SEALING OF THE FILING REPORT DOES NOT MEET THE REQUIREMENTS OF THE FIRST AMENDMENT OR CALIFORNIA LAW .....	4
A. The Public's Constitutional Right of Access Requires Proof that Sealing is Strictly and Inescapably Necessary and Detailed Findings Justifying Sealing .....	4
B. The Procedural Requirements for Sealing the Filing Report Have Not Been Met and No Findings Sufficient to Justify Sealing Were Made .....	5
C. The Requirements for Sealing the Filing Report Cannot Be Met Because No Party Can Establish a Substantial Probability that an Overriding Interest Will Be Prejudiced, that Alternatives to Sealing Are Inadequate, and that Sealing the Filing Report Will Effectively Prevent Prejudice .....	6
1. No Showing Has Been Can Be Made that Sealing Is Necessary to Protect the Defendants' Ability to Obtain a Fair Trial .....	6
a. Santa Clara County has a large, diverse pool of potential jurors sufficient to provide Defendants an unbiased jury .....	8
b. The nature and extent of the publicity does not justify sealing .....	10
c. Alternatives to sealing exist, and are sufficient to ensure that there is no prejudice to the Defendants' ability to obtain a fair trial .....	10
2. No Showing Has Been or Can Be Made that Sealing Is Necessary to Protect the People's Right to a Fair Trial .....	11
3. Alternatives to Sealing the Filing Report Are More Than Adequate to Prevent Any Meaningful Prejudice .....	12
4. Sealing the Statement Cannot Be Effective in Preventing Any Perceived Harm Because No Threat of Irreparable Damage Exists .....	12
V. THE FILING REPORT MUST BE UNSEALED EVEN IF THE EVIDENCE CONTAINED IN THE REPORT IS NOT INTRODUCED INTO EVIDENCE .....	13
VI. CONCLUSION .....	15

TABLE OF AUTHORITIES

	Page(s)
<u>Federal Cases</u>	
<i>Associated Press v. United States Dist. Court</i> (9th Cir. 1983) 705 F.2d 1143 .....	2, 3, 4, 5, 6, 7, 8, 12
<i>CBS, Inc. v. United States Dist. Court</i> (9th Cir. 1984) 729 F.2d 1174 .....	8, 9
<i>CBS, Inc. v. United States Dist. Court</i> (9th Cir. 1985) 765 F.2d 823 .....	4, 5
<i>Cox Broadcasting Corp. v. Cohn</i> (1975) 420 U.S. 469 .....	15
<i>Elrod v. Burns</i> (1976) 427 U.S. 347 .....	5
<i>Gannett Co., Inc. v. DePasquale</i> (1979) 443 U.S. 368 [Rehnquist, J., concurring] .....	7
<i>In re Globe Newspaper Co.</i> (1st Cir. 1984) 729 F.2d 47 .....	14
<i>Globe Newspaper Co. v. Superior Court</i> (1982) 457 U.S. 596 .....	2, 3, 7
<i>Irvin v. Dowd</i> (1961) 366 U.S. 717 .....	7
<i>Murphy v. Florida</i> (1975) 421 U.S. 794 .....	6
<i>Nebraska Press Ass'n v. Stuart</i> (1976) 427 U.S. 539 .....	6, 8, 10, 12
<i>Nixon v. Warner Communications</i> (1978) 435 U.S. 589 .....	3
<i>Oregonian Publishing Co. v. U.S. Dist. Court</i> (9th Cir. 1990) 920 F.2d 1462, cert denied .....	4
<i>Phoenix Newspapers, Inc. v. United States Dist. Court</i> (9th Cir. 1998) 156 F.3d 940 .....	2
<i>Press-Enterprise Co. v. Superior Court</i> (1984) 464 U.S. 501 .....	2, 10

1	<i>Press-Enterprise Co. v. Superior Court</i> (1986)	
2	478 U.S. 1 .....	2, 4, 7, 10
3	<i>Richmond Newspapers, Inc. v. Virginia</i> (1980)	
4	448 U.S. 555 .....	2, 3
5	<i>In re Search of 8420 Ocean Gateway Easton, Maryland</i> (D. Md. 2004)	
6	353 F.Supp.2d 577 .....	12
7	<i>Seattle Times v. United States Dist. Court</i> (9th Cir. 1988)	
8	845 F.2d 1513 .....	1, 7, 10, 12, 13, 14
9	<i>U.S. v. Chagra</i> (5th Cir. 1983)	
10	701 F.2d 354 .....	14
11	<i>U.S. v. Graham</i> (2d Cir. 2001)	
12	257 F.3d 143 .....	14
13	<i>U.S. v. Smith</i> (3d Cir. 1985)	
14	776 F.2d 1104 .....	4, 13
15	<i>United States v. Antar</i> (3d Cir. 1994)	
16	38 F.3d 1348 .....	5
17	<i>United States v. Brooklier</i> (9th Cir. 1982)	
18	685 F.2d 1162 .....	4, 6
19	<i>United States v. Giordano</i> (D. Conn. 2001)	
20	158 F.Supp.2d 242 .....	4
21	<i>United States v. Gonzales</i> (D. Del. 1996)	
22	927 F.Supp. 768 ("Gonzales") .....	11
23	<i>United States v. Kott</i> (C.D. Cal. 2004)	
24	380 F.Supp.2d 1122 .....	11
25	<i>United States v. Myers</i> (2d Cir. 1980)	
26	635 F.2d 945 .....	6
27	<i>United States v. W.R. Grace</i> (D. Mont. 2006)	
28	408 F.Supp.2d 998 .....	10
	<i>Up North Plastics</i> (D. Minn. 1996) 940 F.Supp. 229, 233 .....	12
	<i>Waller v. Georgia</i> (1984)	
	467 U.S. 39 .....	3, 6, 7, 13
	<i>Wolsky v. Oregonian Publishing Co.</i> (1991)	
	501 U.S. 1210 .....	4

1	<u>State Cases</u>	
2	<i>Accord Paradise Hills Associates v. Procel</i>	
3	(1991) 235 Cal.App.3d 1528.....	5
4	<i>Brian W. v. Super. Ct.</i> (1978)	
5	20 Cal.3d 618.....	6, 10, 12
6	<i>Copley Press, Inc. v. Superior Court</i> (1991)	
7	228 Cal.App.3d 77.....	4
8	<i>Copley Press, Inc. v. Superior Court</i> (1992)	
9	6 Cal.App.4th 106.....	3, 15
10	<i>Copley Press, Inc. v. Superior Court</i> (1998)	
11	63 Cal.App.4th 367.....	3, 4, 14
12	<i>Estate of Hearst</i> (1977)	
13	67 Cal.App.3d 777.....	3, 13, 15
14	<i>Mary R. v. B. &amp; R. Corp.</i> (1983)	
15	149 Cal.App.3d 308.....	4, 11
16	<i>NBC Subsidiary (KNBC-TV), Inc. v. Superior Court</i> (1999)	
17	20 Cal.4th 1178.....	1, 3, 5, 6, 7, 10, 12, 14
18	<i>Odle v. Superior Court</i> (1982)	
19	32 Cal.3d 932.....	10
20	<i>Pantos v. San Francisco</i> (1984)	
21	151 Cal. App. 3d 258.....	15
22	<i>People v. Coffman</i> (2004)	
23	34 Cal.4th 1.....	10
24	<i>People v. Cooper</i> (1991)	
25	53 Cal.3d 771.....	7
26	<i>People v. Harris</i> (1981)	
27	28 Cal.3d 935.....	6
28	<i>People v. Jenkins</i> (2000)	
	22 Cal.4th 900.....	8
	<i>People v. Jennings</i> (1991)	
	53 Cal.3d 334.....	7
	<i>People v. Manson</i> (1976)	
	61 Cal.App.3d 102.....	9
		534

1	<i>People v. Massie</i> (1998)	
2	19 Cal.4th 550.....	9
3	<i>People v. Mendosa</i> (1982)	
4	137 Cal. App. 3d 888.....	7
5	<i>People v. Prince</i> (2007)	
6	40 Cal. 4th 1179.....	8, 10
7	<i>People v. Proctor</i> (1992)	
8	4 Cal.4th 499.....	8
9	<i>People v. Sully</i> (1991)	
10	53 Cal.3d 1195.....	9
11	<i>People v. Vieira</i> (2005)	
12	35 Cal.4th 264.....	9
13	<i>People v. Welch</i> (1999)	
14	20 Cal.4th 701.....	8, 9
15	<i>Press-Enterprise Co. v. Superior Court</i> (1994)	
16	22 Cal. App. 4th 498.....	8, 10
17	<i>Savaglio v. Wal-Mart Stores, Inc.</i> (2007)	
18	149 Cal.App.4th 588.....	3, 14
19	<i>United States v. Edwards</i> (D.C.App.1981)	
20	430 A.2d 1321.....	14
21	<u>Federal: Statutes, Rules, Regulations, Constitutional Provisions</u>	
22	U.S. Const., 1st Amendment.....	1, 2, 3, 4, 5, 6, 7, 11, 13, 14, 15
23	<u>State: Statutes, Rules, Regulations, Constitutional Provisions</u>	
24	California Constitution.....	3, 14, 15
25	Cal. Const., Article I, § 2, subd. (a).....	3, 14
26	Cal. Const., Article I, § 3, subd. (b).....	3, 14
27	Cal. Rules of Ct., rule 2.550.....	3, 6, 15
28	Cal. Rules of Ct., rule 2.551.....	3, 15
	Penal Code § 1033.....	8

1 **I. INTRODUCTION**

2 The San Jose Mercury News, LLC (Mercury News) requests that the Filing Report filed by  
3 the Santa Clara County District Attorney in support of the complaint and prosecution in this matter  
4 be unsealed in its entirety.

5 The public and the press have a right of access to pretrial hearings and documents under  
6 the First Amendment and California law. (*NBC Subsidiary (KNBC-TV), Inc. v. Superior Court*  
7 (1999) 20 Cal.4th 1178, 1216-1218, and fn. 36 (*NBC Subsidiary*); *Seattle Times v. United States*  
8 *Dist. Court* (9th Cir. 1988) 845 F.2d 1513, 1515.) Here, the Filing Report provided the factual  
9 foundation for the charges against Defendant, who has been charged with two counts of sexual  
10 assault. It was sealed at the request of Defendant's counsel, who claimed that it will "contaminate  
11 the jury pool and deprive defendant of a fair trial." (Defendant's Memorandum of Points and  
12 Authorities in Support of Application to Seal File ("Defendant's MPA"), 4:6-8).

13 There is no sound basis for concluding that disclosure of the Filing Report would prejudice  
14 Defendant's ability to obtain a fair trial. The sealing of the Filing Report, even for a limited  
15 period, is therefore contrary to the First Amendment and California law, and the Filing Report  
16 should be unsealed immediately.

17 **II. FACTUAL AND PROCEDURAL SUMMARY**

18 The information available to the Mercury News regarding this matter is limited by the  
19 sealing of the Filing Report. As far as the Mercury News has been able to establish, Defendant  
20 has been accused of assaulting two seven year old girls at O.B. Whaley Elementary School, where  
21 Defendant was a teacher. (Declaration of T. Andrew Huntington ("Huntington Decl.," ) ¶ 4.).  
22 Defendant was arrested on January 10, 2012, and on January 13, 2012, the Government filed a  
23 Complaint in this matter. (Huntington Decl., at ¶4-5, and Exhibit 1 attached thereto).  
24 Simultaneously, on January 13, 2012, and in support of the Complaint, the District Attorney's  
25 office submitted a report prepared by the San Jose Police Department ("the Filing Report") that  
26 contained summaries of the alleged victims' accounts of the alleged assaults. (*Id.* at ¶ 6).

27 At his January 13, 2012 arraignment hearing, Defendant asked the court to seal the Filing  
28 Report. (*Id.* at ¶ 7). The court granted Defendant's request and ordered the Filing Report sealed.

(*Id.*). In granting Defendant's request to seal, the court did not provide any written order providing a factual basis or reasoning in support of its decision. (*Id.*).

On or about January 17, 2012, the court, on its own motion, scheduled a hearing for January 20, 2012, in order to reconsider Defendant's sealing request. (*Id.* at ¶ 8). At the January 20, 2012 hearing, the court disagreed with Defendant, and held that the Filing Report was part of the court's file, and had been considered by the court in denying bail to the Defendant. (*Id.*). The court then ordered an additional hearing on the issue of Defendant's request to seal the Filing Report, to take place on January 31, 2012. (*Id.*).

In seeking to seal the Filing Report, Defendant argues that any dissemination of the Filing Report would contaminate the jury pool and deprive defendant of a fair trial as it "contains an incomplete and biased synopsis of some of the allegations against the Defendant. In particular it fails to set forth the defendant's statement to the Police Officers denying the allegations." (Defendant's MPA, 2:17-20, 4:6-8). The only additional facts Defendant cited in his request to seal were that "the police department has issued a press release in this case in an effort to publicize it. The media has responded with numerous television and print stories about the defendant and the allegations. The arraignment hearing was televised, which is likely to continue with subsequent hearings." (Defendant's MPA, 4:1-6). Defendant, however, has not provided any evidentiary support for the alleged facts supporting his request to seal.

### III. THE MERCURY NEWS HAS STANDING TO SEEK ACCESS TO THE FILING REPORT FILED TO SUPPORT THE PROSECUTION

The Supreme Court first established the media's standing under the First Amendment with respect to access to court proceedings decades ago. (See *Globe Newspaper Co. v. Superior Court* (1982) 457 U.S. 596, 609, fn. 25 (*Globe Newspaper*) ["Of course, for a case-by-case approach to be meaningful, representatives of the press and general public 'must be given an opportunity to be heard on the question of their exclusion.'"]; *Richmond Newspapers, Inc. v. Virginia* (1980) 448 U.S. 555, 580 (*Richmond*); *Press-Enterprise Co. v. Superior Court* (1984) 464 U.S. 501, 508-510 (*Press-Enterprise I*); *Press-Enterprise Co. v. Superior Court* (1986) 478 U.S. 1, 7 (*Press-Enterprise II*).) The First Amendment also give the press and the public standing to seek access to



1 court records. (See, e.g., *Phoenix Newspapers, Inc. v. United States Dist. Court* (9th Cir. 1998)  
 2 156 F.3d 940, 949 [“if a court contemplates sealing a document or transcript, it must provide  
 3 sufficient notice to the public and press to afford them the opportunity to object or offer  
 4 alternatives”]; *Associated Press v. United States Dist. Court* (9th Cir. 1983) 705 F.2d 1143, 1147  
 5 (*Associated Press*).)

6 Like the First Amendment, the California Constitution provides a right of access to court  
 7 records, which the press and the public have standing to assert. (See Cal. Const., art. I, § 2, subd.  
 8 (a); *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court* (1999) 20 Cal.4th 1178, 1216-1218, and  
 9 fn. 36 (*NBC Subsidiary*); *Copley Press, Inc. v. Superior Court* (1992) 6 Cal.App.4th 106, 113  
 10 (*Copley II*); *Copley Press, Inc. v. Superior Court* (1998) 63 Cal.App.4th 367, 373 (*Copley III*)  
 11 [“both the federal (U.S. Const., 1st Amend.) and the state (Cal. Const., art. I, § 2, subd. (a))  
 12 Constitutions provide broad access rights to judicial records in criminal and civil cases.”].)  
 13 Indeed, as the result of the passage of Proposition 59, there is now an express constitutional right  
 14 of public access to all “information concerning the conduct of the people’s business.” (See Cal.  
 15 Const. art. I, § 3, subd. (b).) Thus, “the writings of public officials and agencies shall be open to  
 16 public scrutiny.” (Cal. Const. art. I, § 3, subd. (b).) The right of access created by Proposition 59  
 17 applies to court records. (*Savaglio v. Wal-Mart Stores, Inc.* (2007) 149 Cal.App.4th 588, 597  
 18 [recognizing constitutional right of access to civil court records under Proposition 59].)<sup>1</sup>

19 Finally, California Rules of Court 2.550 and 2.551 apply to all court records, and  
 20 specifically give the public standing to seek the unsealing of court records: “A party or member of  
 21 the public may move, apply, or petition, or the court on its own motion may move, to unseal a  
 22 record.” (Cal. Rules of Ct., rule 2.551, subd. (h)(2).)

23  
 24  
 25  
 26  
 27 <sup>1</sup> The Mercury News also has standing under common law to seek access to court records.  
 28 (*Nixon v. Warner Communications* (1978) 435 U.S. 589, 597; *Estate of Hearst* (1977) 67  
 Cal.App.3d 777, 782.).

IV. THE SEALING OF THE FILING REPORT DOES NOT MEET THE  
REQUIREMENTS OF THE FIRST AMENDMENT OR CALIFORNIA LAW

A. The Public's Constitutional Right of Access Requires Proof that Sealing is Strictly  
and Inescapably Necessary and Detailed Findings Justifying Sealing

The First Amendment gives the press and the public the right to attend criminal trials and proceedings. (*Richmond*, 448 U.S. at 580; *Globe Newspaper*, 457 U.S. at 603.) The First Amendment right of access applies to pretrial proceedings and records of these proceedings. (See, e.g., *Waller v. Georgia* (1984) 467 U.S. 39 (*Waller*) [motions to suppress evidence]; *Associated Press*, 705 F.2d at 1146 [pretrial motions]; *United States v. Brooklier* (9th Cir. 1982) 685 F.2d 1162, 1172 (*Brooklier*) [motions to exclude evidence].)

While the constitutional right of access is not absolute, both California and federal authorities place a heavy burden on the party seeking secrecy to justify denial of the public's First Amendment rights. Secrecy must be "*strictly and inescapably necessary*" to protect a compelling government interest. (*Associated Press*, 705 F.2d at 1146 [italics added]; *Brooklier*, 685 F.2d at 1167. See also *Copley III*, 63 Cal.App.4th at 374 [compelling reasons must establish why and to what extent records should be made private]; *Mary R. v. B. & R. Corp.* (1983) 149 Cal.App.3d 308, 317 [burden rests on party seeking to deny public access to establish compelling reasons why and to what extent those records should be made private].)

In addition, before sealing may occur, the trial court must provide notice to the public and media and afford them an opportunity to object, hold a prompt hearing on any objections to closure, and make specific findings of fact in support of its determination that the proceedings should be closed. (See, e.g., *CBS, Inc. v. United States Dist. Court* (9th Cir. 1985) 765 F.2d 823, 825; *Oregonian Publishing Co. v. U.S. Dist. Court* (9th Cir. 1990) 920 F.2d 1462, 1466, *cert denied*; *Wolsky v. Oregonian Publishing Co.* (1991) 501 U.S. 1210.) Public access to court proceedings and records cannot be denied "unless specific, on the record findings are made demonstrating that 'closure is essential to preserve higher values and is narrowly tailored to serve that interest.'" (*Press-Enterprise II*, 478 U.S. at 13-14; *Copley Press, Inc. v. Superior Court* (1991) 228 Cal.App.3d 77, 84-85 (*Copley I*).)

1 The common law and First Amendment rights of access apply to "affidavits supporting  
2 criminal complaints." (*United States v. Giordano* (D. Conn. 2001) 158 F.Supp.2d 242, 244.)  
3 Public access to court documents that establish the parameters of the government's case in a  
4 criminal proceeding, such as charging documents or a bill of particulars, serve the societal interest  
5 of maintaining public confidence in the administration of justice. (See *U.S. v. Smith* (3d Cir.  
6 1985) 776 F.2d 1104, 1111 [First Amendment right of access applies to criminal indictment,  
7 information, and bill of particulars].) A criminal complaint and supporting statement of facts, like  
8 an indictment or a bill of particulars, define and limit the government's case. They are therefore  
9 critical to the prosecution, and to the public's understanding of the criminal process.

10 Furthermore, a "total restraint on the public's first amendment right of access [is  
11 prohibited] even though the restraint is limited in time." (*Associated Press*, 705 F.2d at 1147.)  
12 "Loss of First Amendment freedoms, even for minimal periods of time, unquestionably constitutes  
13 irreparable injury." (*Elrod v. Burns* (1976) 427 U.S. 347, 373. *Accord Paradise Hills Associates*  
14 *v. Procel* (1991) 235 Cal.App.3d 1528, 1539.)

15 In this case, the requirements for sealing the Filing Report have not and cannot be met.

16 **B. The Procedural Requirements for Sealing the Filing Report Have Not Been Met and**  
17 **No Findings Sufficient to Justify Sealing Were Made**

18 Public notice of a request to seal court records must be given in advance. (*NBC*  
19 *Subsidiary*, 20 Cal. 4th at 1217 ["a trial court must provide notice to the public of the  
20 contemplated closure"]; *CBS, Inc. v. United States Dist. Court*, 765 F.2d at 825.) A hearing must  
21 be held and the required findings made before court records are sealed. (*NBC Subsidiary*, 20 Cal.  
22 4th at 1218.) "[T]he requirement that particularized findings of a compelling interest must be  
23 placed on the record before a hearing is closed or a record sealed is not only for the benefit of the  
24 reviewing court on appeal. It exists, most fundamentally, to assure careful analysis by the district  
25 court before any limitation is imposed, because reversal on review cannot fully vindicate First  
26 Amendment rights." (*United States v. Antar* (3d Cir. 1994) 38 F.3d 1348, 1362.)

27 Here there is no evidence that Defendant's request for sealing was publicly announced in  
28 advance or docketed in any way, and there is no evidence that there was a public hearing for the

1 purpose of providing the press or public with an opportunity to object to Defendant's sealing  
 2 request. In ordering that the Filing Report be sealed, the court did not issue any type of order  
 3 containing its findings, much less any findings that meet the requirements of the First Amendment  
 4 and California law. (Huntington Decl., at ¶ 7). In short, none of the procedural requirements for  
 5 the sealing of court records in a criminal proceeding have been met. For this reason alone, the  
 6 sealing of the Filing Report was and is improper, and it must be unsealed.

7 **C. The Requirements for Sealing the Filing Report Cannot Be Met Because Defendant**  
 8 **Cannot Establish a Substantial Probability that an Overriding Interest Will Be**  
 9 **Prejudiced, that Alternatives to Sealing Are Inadequate, and that Sealing the Filing**  
 10 **Report Will Effectively Prevent Prejudice**

11 The First Amendment requires that "the party seeking to close the hearing must advance an  
 12 overriding interest that is likely to be prejudiced, the closure must be no broader than necessary to  
 13 protect that interest, the trial court must consider reasonable alternatives to closing the proceeding,  
 14 and it must make findings adequate to support the closure." (*Waller*, 467 U.S. at 48. See also  
 15 *NBC Subsidiary*, 20 Cal.4th at 1217-1218.) Thus, to justify the sealing of the Filing Report a  
 16 substantial probability must exist that: (1) irreparable damage to an overriding interest will result;  
 17 (2) alternatives to sealing will not adequately protect that interest; and (3) sealing will be effective  
 18 in protecting against the perceived harm. (*Associated Press*, 705 F.2d at 1146; *Brooklier*, 685  
 19 F.2d at 1168-69.)<sup>2</sup> This showing was not and cannot be made by Defendant in this case.

20 **1. No Showing Has Been Can Be Made that Sealing Is Necessary to Protect the**  
 21 **Defendants' Ability to Obtain a Fair Trial**

22 It cannot be presumed that pretrial publicity deprives a defendant of a fair trial. Pretrial  
 23 publicity, even if pervasive and concentrated, does not inevitably lead to an unfair trial in criminal  
 24 cases. (*Nebraska Press Ass'n v. Stuart* (1976) 427 U.S. 539, 554. See also *Murphy v. Florida*,  
 25 (1975) 421 U.S. 794, 799 [The decided cases "cannot be made to stand for the proposition that  
 26 juror exposure to . . . news accounts of the crime with which [a defendant] is charged alone

27 <sup>2</sup> Essentially the same requirements for sealing are imposed by California law. (Cal. Rules  
 28 of Ct., rule 2.550, subd. (d). See also *NBC Subsidiary*, 20 Cal. 4th at 1218.)

presumptively deprives the defendant of due process.”]; *United States v. Myers* (2d Cir. 1980) 635 F.2d 945, 953 [intensive publicity surrounding the events of Watergate, “very likely the most widely reported crime of the past decade,” did not prevent the selection of impartial jurors]].<sup>3</sup>

Furthermore, conclusory or speculative assertions that pretrial publicity will have a detrimental effect on a defendant’s right to a fair trial are insufficient to justify sealing. “The First Amendment right of access cannot be overcome by the conclusory assertion that publicity might deprive the defendant of [the right to a fair trial].” (*Press-Enterprise II*, 478 U.S. at 15; *NBC Subsidiary*, 20 Cal.4th at 1225 [same]. See also *Waller*, 467 U.S. at 46-48 [speculation that some harm or prejudice might occur cannot meet the compelling interest test]; *Globe Newspaper*, 457 U.S. at 609-10 [speculative claims do not justify closure].) Thus, neither the speculative and conclusory assertions in Defendant’s MPA submitted in support of the sealing of the Filing Report, nor any similar, unsupported conjecture, can justify sealing court records.

Documents in cases generating significant public interest are “routinely opened to the public without jeopardizing the fair trial guarantee.” (*Associated Press*, 705 F.2d at 1146.) In fact, the “instances in which pretrial publicity alone, even pervasive and adverse publicity, actually deprives a defendant of the ability to obtain a fair trial will be quite rare.” (*Gannett Co., Inc. v. DePasquale* (1979) 443 U.S. 368, 404 fn.1 [Rehnquist, J., concurring].) Even where jurors have been exposed to information about the case and have formed some impression or opinion as to the merits, prejudice may not be presumed. (*Irvin v. Dowd* (1961) 366 U.S. 717, 722-23 [jurors are generally able to lay aside their impressions or opinions and render a verdict based solely upon the evidence at trial]; *People v. Cooper* (1991) 53 Cal.3d 771, 807 [“It is sufficient if the juror can lay aside his impression or opinion and render a verdict based on the evidence presented in court.”].)

<sup>3</sup> See also *People v. Harris* (1981) 28 Cal.3d 935, 949 (the “controlling cases ‘cannot be made to stand for the proposition that juror exposure to information about a state defendant’s prior convictions or to news accounts of the crime with which he is charged alone presumptively deprives the defendant of due process’”); *Brian W. v. Super. Ct.* (1978) 20 Cal.3d 618, 625 (petitioner overestimated the impact that even substantial publicity might have on the very large pool of potential jurors in Los Angeles County); *People v. Jennings* (1991) 53 Cal.3d 334, 362 (“The fact that a case receives enormous publicity does not by itself establish error nor does conceded ‘massive’ publicity automatically translate into prejudice”); *People v. Mendoza* (1982) 137 Cal. App. 3d 888, 895 (“there is no presumption that an accused suffers prejudice from unfriendly news stories”).

1           Rather, in order to justify sealing, the “publicity must create a ‘pattern of deep and bitter  
2 prejudice’ . . . throughout the community” such that the defendant cannot possibly receive a fair  
3 trial. (*Seattle Times v. United States Dist. Court*, 845 F.2d at 1517.) In other words, it must be  
4 established that publicity resulting from disclosure of the Filing Report “would be so extensive  
5 and widespread that it threatens to prejudice the entire jury pool so that twelve unbiased jurors  
6 could not be found.” (*Press-Enterprise Co. v. Superior Court* (1994) 22 Cal. App. 4th 498, 504;  
7 see also *Nebraska Press Assn*, 427 U.S. at 568-69; *CBS, Inc. v. United States Dist. Court* (9th Cir.  
8 1984) 729 F.2d 1174, 1180.) Among the factors to be considered are: (1) the size of the potential  
9 jury pool; (2) the nature and extent of the publicity; and (3) the existence of reasonable alternatives  
10 to sealing. (*Press-Enterprise III*, 22 Cal. App. 4th at 503-504.)

11           **a. Santa Clara County has a large, diverse pool of potential jurors**  
12           **sufficient to provide Defendants an unbiased jury**

13           The potential jury pool in Santa Clara County is extremely large and very diverse. The  
14 population of Santa Clara County is more than 1.7 million, making it the sixth largest county in  
15 the State.<sup>4</sup> That population is economically, racially, and culturally diverse. The Court can adjust  
16 the size of the venire it calls as necessary to ensure that a venire sufficient to ensure that a panel of  
17 twelve impartial jurors is seated. Moreover, practical experience shows that in a county as  
18 populous as Santa Clara, the Court will have little difficulty finding an impartial jury. Cases that  
19 have received much greater media coverage than this one—including the high-profile prosecutions  
20 of Richard Allen Davis and Cary Stayner—have been transferred to Santa Clara County,  
21 specifically because the courts found that a fair trial could be obtained here despite extensive  
22 statewide or even national publicity.

23           The California Supreme Court has frequently examined claims of prejudice based on  
24 pretrial publicity in the context of motions for change of venue. Although the standard for  
25

26  
27           <sup>4</sup> State of California, Department of Finance, Report E-1: *County/State Population*  
28           *Estimates with Annual Percent Change, January 1, 2010 and 2011*. (Huntington Decl., at ¶ 11,  
          and Exhibit 3.)

1 obtaining a change of venue is lower than the standard for sealing court records,<sup>5</sup> the Supreme  
 2 Court has consistently rejected such claims. (See, e.g., *People v. Prince* (2007) 40 Cal. 4th 1179,  
 3 1210-1218; *People v. Jenkins* (2000) 22 Cal.4th 900, 942-46; *People v. Welch* (1999) 20 Cal.4th  
 4 701, 743-45; *People v. Massie* (1998) 19 Cal.4th 550, 577-79.)

5 The California Supreme Court has consistently held that defendants can obtain an unbiased  
 6 jury in counties with populations significantly smaller than Santa Clara County's. (See, e.g.,  
 7 *Welch*, 20 Cal. 4th at 743-45 [Alameda County, sixth largest in the state]; *People v. Sully* (1991)  
 8 53 Cal.3d 1195, 1236-37 [San Mateo County, eleventh most populous]; *People v. Vieira* (2005) 35  
 9 Cal.4th 264, 279-283 [Stanislaus County, population 370,000].) As recognized by the Ninth  
 10 Circuit Court of Appeals in a case involving the pretrial disclosure of videotapes of automobile  
 11 executive John DeLorean engaging in drug transactions:

12 [T]he courts have long held that in a large metropolitan area,  
 13 prejudicial publicity is far less likely to endanger the defendant's  
 14 right to a fair trial. . . . Moreover, in a populous metropolitan area,  
 15 the pool of potential jurors is so large that even in cases attracting  
 16 extensive and inflammatory publicity, it is usually possible to find  
 17 an adequate number of untainted jurors.

18 (*CBS, Inc. v. United States Dist. Court*, 729 F.2d at 1181. See also *People v. Manson* (1976) 61  
 19 Cal.App.3d 102, 190 [even in the prosecution of Charles Manson "[a] metropolitan setting with its  
 20 diverse population tends to blunt the penetrating effect of publicity"].)

21 The qualifications for jury service in California are readily met.<sup>6</sup> There are hundreds of  
 22 thousands of potential jurors in Santa Clara County. Any argument that twelve impartial jurors  
 23 could not be found is insupportable in light of the size and diversity of Santa Clara County.

24 <sup>5</sup> California law requires a trial court to grant a motion for change of venue if "there is a  
 25 *reasonable likelihood* that a fair and impartial trial cannot be had in the county." Penal Code  
 26 § 1033 (italics added). "In ruling on such a motion, as to which defendant bears the burden of  
 27 proof, the trial court considers as factors the gravity and nature of the crime, the extent and nature  
 28 of the publicity, the size and nature of the community, the status of the victim, and the status of the  
 accused." (*People v. Proctor* (1992) 4 -Cal.4th 499, 523.) On the other hand, the proponent of  
 sealing a court document must establish there is a *substantial probability* that making the  
 document public would damage defendants rights. (*Associated Press*, 705 F.2d at 1147.)

<sup>6</sup> See <http://www.courts.ca.gov/2179.htm#tab7750> (California Courts web site information  
 on qualifications for jury service). (Huntington Decl., ¶ 12, and Exh. 4.)

**b. The nature and extent of the publicity does not justify sealing**

In obtaining the sealing order, Defendant has presented no evidence as to the nature or extent of the media coverage regarding this case beyond several vague and unsubstantiated statements claiming that “the police department has issued a press release in this case in an effort to publicize it. The media has responded with numerous television and print stories about the defendant and the allegations. The arraignment hearing was televised, which is likely to continue with subsequent hearings.” (Defendant’s MPA, 4:1-6).

Indeed, an examination of the actual coverage suggests that the coverage has been limited. Only three articles regarding this case have been published by the Mercury News, either in print or online. (Huntington Decl., ¶ 4, and Exh. 1) Coverage by other media appears to have been limited as well, and that coverage not been inflammatory or sensationalistic. (*Id.*)

Again, cases addressing motions for change of venue, and applying a lower standard, have consistently rejected the proposition that even substantially greater coverage creates a likelihood of prejudice to a defendant’s ability to obtain a fair trial. (*See, e.g., Prince*, 40 Cal. 4th at 1210–1211 [evidence of more than 270 newspaper articles as well as extensive television coverage]; *People v. Sully* (1991) 53 Cal.3d 1195 [“the media attention was substantial (193 articles from 4 newspapers, 300 pages of television scripts, and 8 videotapes)”]; *People v. Coffman* (2004) 34 Cal.4th 1, 45 [more than 150 articles and various videos of television coverage]; *Odle v. Superior Court* (1982) 32 Cal.3d 932, 938-939 [more than 150 newspaper articles, 70 of which mentioned the defendant in the headlines].) The limited coverage of this case to date indicates that future coverage is unlikely to be extensive or inflammatory, and that even if it was far more extensive than it has been to date, it would not begin to justify sealing the Filing Report.

**c. Alternatives to sealing exist, and are sufficient to ensure that there is no prejudice to the Defendants’ ability to obtain a fair trial**

Court records may not be sealed unless less restrictive alternatives will not protect the ability to obtain a fair trial. (*Press Enterprise II*, 478 U.S. at 14; *NBC Subsidiary*, 20 Cal.4th at 1217-1218; *Press-Enterprise III*, 22 Cal.App.4th at 504.) There are numerous alternatives to sealing, including careful voir dire (with individual and sequestered voir dire, if necessary),



peremptory challenges (increasing the number of peremptory challenges if appropriate), assembling a larger than normal jury pool, instructions and admonitions to the jury, postponement of trial, and change of venue. (*Nebraska Press Assn. v. Stuart*, 427 U.S. at 563-564; *NBC Subsidiary*, 20 Cal.4th at 1223-1225; *Brian W. v. Superior Court* (1978) 20 Cal.3d 618, 625; *Seattle Times Co. v. United States District Court*, 845 F.2d at 1518; *United States v. W.R. Grace* (D. Mont. 2006) 408 F.Supp.2d 998, 1020.) Alternatives to sealing are presumptively adequate to protect Defendant's right to a fair trial, and that presumption can be overcome only in exceptional circumstances. (*NBC Subsidiary*, 20 Cal.4th at 1224.)<sup>7</sup>

This case is not so exceptional that the presumptively sufficient alternatives to sealing are insufficient to ensure a fair trial. Any possible prejudice can be adequately addressed by alternatives to sealing, including careful voir dire questioning, peremptory challenges (increasing the number of peremptory challenges if appropriate), assembling a larger than normal jury pool, instructions and admonitions to the jury, postponement of trial, and change of venue. Therefore, the sealing of the Filing Report cannot be justified.

**2. No Showing Has Been or Can Be Made that Sealing Is Necessary to Protect Defendant's Right to a Fair Trial**

In his request to seal the Filing Report, Defendant claims that any dissemination of the Filing Report would contaminate the jury pool and deprive defendant of a fair trial as it "contains an incomplete and biased synopsis of some of the allegations against the Defendant. In particular it fails to set forth the defendant's statement to the Police Officers denying the allegations." (Defendant's MPA, 2:17-20, 4:6-8). It is not clear how Defendant's right to a fair trial would be prejudiced by public access to the Filing Report, and Defendant provides no real evidence or substantiated facts in support of his assertion. Defendant's vague and conclusory statements utterly fail to satisfy his burden to establish compelling reasons for sealing the Filing Report, and

<sup>7</sup> An order sealing the Filing Report is invalid if it fails to consider and address the alternatives to sealing. (*Press-Enterprise I*, 464 U.S. at 511 [absent consideration of alternatives to closure, the trial court could not constitutionally close criminal court proceedings]; *NBC Subsidiary*, 20 Cal.4th at 1225 [sealing order failed to meet the requirements of California law because trial court did not make a record that alternatives to closure were not adequate to ensure a fair trial].)

1 cannot justify sealing. (*Mary R. v. B. & R. Corp.* (1983) 149 Cal.App.3d 308, 317 [burden rests  
2 on party seeking to deny public access to establish compelling reasons why and to what extent  
3 those records should be made private].)

4 **3. Alternatives to Sealing the Filing Report Are More Than Adequate to Prevent**  
5 **Any Meaningful Prejudice**

6 Defendant has failed to demonstrate any overriding interest needing protection. Even if he  
7 had, the chance that alternatives to sealing cannot adequately ensure a fair trial in this case is  
8 virtually nonexistent. As discussed above, there are numerous alternatives to sealing that can  
9 protect the parties' rights. (*Nebraska Press Assn. v. Stuart*, 427 U.S. at 563-564; *NBC Subsidiary*,  
10 20 Cal.4th at 1223-1225; *Brian W. v. Superior Court*, 20 Cal.3d at 625; *Seattle Times Co. v.*  
11 *United States District Court*, 845 F.2d at 1518; *In re of Search of 8420 Ocean Gateway Easton,*  
12 *Maryland*, 353 F.Supp.2d at 584.) These alternatives are presumptively adequate to prevent  
13 prejudice to the interests that may justify sealing. (See *NBC Subsidiary*, 20 Cal.4th at 1224.)  
14 Therefore, the sealing of the Filing Report was not and cannot be justified.

15 **4. Sealing the Filing Report Cannot Be Effective in Preventing Any Perceived**  
16 **Harm Because No Threat of Irreparable Damage Exists**

17 In cases such as this, where the proponents of sealing cannot establish the first two prongs  
18 of the *Associated Press* test, namely that irreparable damage to an overriding interest will result  
19 from making the documents public and that alternatives to sealing will not adequately protect that  
20 interest, then the third prong of the test becomes irrelevant. As the court explained in *Seattle*  
21 *Times*, 845 F.2d at 1518, "[t]he perceived harm here is prejudicial pretrial publicity. We have  
22 already determined that the sealed documents do not substantially impair defendant's fair trial  
23 right. Therefore, it is irrelevant whether sealing would be effective." Here too, the proponents of  
24 sealing cannot demonstrate a cognizable threat to a fundamental interest that is not susceptible to  
25 amelioration by other means. Therefore, sealing the Filing Report could not effectively achieve  
26 any goal legally sufficient to justify sealing, and the statement must be unsealed.

V. THE FILING REPORT MUST BE UNSEALED EVEN IF THE EVIDENCE  
CONTAINED IN THE REPORT IS NOT INTRODUCED INTO EVIDENCE

The Filing Report is subject to the First Amendment right of access applicable to all accusatory pleadings, and the First Amendment analysis does not change even if the nature of the case changes or the information contained in the report is not introduced into evidence. (*U.S. v. Smith* (3d Cir. 1985) 776 F.2d 1104, 1111 [First Amendment right of access applies to criminal indictment, information, and bill of particulars].) The Complaint and the evidence submitted in support of it remain subject to the right of access even if the information contained in the Filing Report is not admitted into evidence.<sup>8</sup>

The District Attorney submitted the Filing Report to the Court for consideration in connection with pretrial arraignment and detention proceedings, and it was necessarily considered by the Court. (Huntington Decl., at ¶ 8). The public's First Amendment right of access applies to materials submitted for consideration in connection with pretrial detention hearings regardless of whether the materials are admitted into evidence. (See, e.g., *Seattle Times Co. v. United States Dist. Court* (9th Cir. 1988) 845 F.2d 1513, 1517 (*Seattle Times*) [First Amendment right of access to "pretrial release proceedings and documents filed therein"]; *In re Globe Newspaper Co.* (1st

<sup>8</sup> The considerations that necessitate a First Amendment right to access complaints, in particular, the significant positive role public access plays in the functioning of pretrial proceedings, apply even when some charges have been dropped or complaints have been subsequently revised. The Filing Report provided the basis for the District Attorney's charges and the court's decision in denying bail. (Huntington Decl., at ¶ 8), and casts light on the propriety of those charges, whether or not the charges are ever introduced into evidence. The public has a fundamental interest in evaluating the conduct of the prosecution and the police in investigating and prosecuting criminal cases. (See e.g. *Waller v. Georgia* (1984) 467 U.S. 39, 47 [recognizing public interest in suppression hearings, which "frequently attack[] the conduct of police and prosecutor," and the "strong interest in exposing substantial allegations of police misconduct to the salutary effects of public scrutiny"].) Similarly, the tradition of public access to a charging document "reflects the importance of its role in the criminal trial process and the public's interest in knowing its contents. . . . Knowledge of the charge or charges is essential to an understanding of the trial, essential to an evaluation of the performance of counsel and the court, and, most importantly, essential to an appraisal of the fairness of the criminal process to the accused." (*United States v. Smith*, 776 F.2d at 1111.) "[P]retrial release proceedings implicate the related policy concerns of a public educated in the workings of the justice system and a system subjected to health public scrutiny." (*Seattle Times*, 845 F.2d at 1516.) Moreover, "[i]f public court business is conducted in private, it becomes impossible to expose corruption, incompetence, inefficiency, prejudice and favoritism." (*Estate of Hearst*, 67 Cal.App.3d at 784.) Without access to the Filing Report, the public cannot determine whether there was a sound foundation for the charges against Defendant, and cannot appraise the conduct of the police and the prosecution.

1 Cir. 1984) 729 F.2d 47, 52 [public has a First Amendment right of access to pretrial proceeding  
 2 setting and modifying bail, and to documents on which bail decisions are based]; *U.S. v. Chagra*  
 3 (5th Cir. 1983) 701 F.2d 354, 363-364 (*Chagra*) [First Amendment right of access to bail  
 4 reduction hearings]; *United States v. Edwards* (D.C.App.1981) 430 A.2d 1321, 1343-46 [First  
 5 Amendment right of access to pretrial detention hearings]; *U.S. v. Graham* (2d Cir. 2001) 257  
 6 F.3d 143 [common law right of access to audio and video tapes played at pretrial detention hearing  
 7 but not admitted into evidence].) The Filing Report was filed in connection with and formed part  
 8 of the basis for the Court's decision regarding Defendants' pretrial detention, and therefore the  
 9 First Amendment right of access applies to it. (Huntington Decl., at ¶ 8).

10 Finally, the California Constitution and California law provide independent rights of  
 11 access to the Filing Report that exist regardless of whether Government pursues the original  
 12 charges. As the result of passage of Proposition 59, there is an express constitutional right of  
 13 public access to all "information concerning the conduct of the people's business." (*See Cal.*  
 14 *Const. art. I, § 3, subd. (b).*) This constitutional right of access applies to court records. (*Savaglio*  
 15 *v. Wal-Mart Stores, Inc.* (2007) 149 Cal. App. 4th 588, 597 [recognizing constitutional right of  
 16 access to civil court records under Proposition 59].) The California courts have also long  
 17 recognized a public right of access to court records under both the free speech clause of the  
 18 California Constitution and under California common law. (Cal. Const., art. I, § 2, subd. (a); *NBC*  
 19 *Subsidiary*, 20 Cal.4th at 1216-1218, and fn. 36; *Copley Press, Inc. v. Superior Court* (1998) 63  
 20 Cal.App.4th 367, 373 ["both the federal (U.S. Const., 1st Amend.) and the state (Cal. Const., art. I,  
 21 § 2, subd. (a)) Constitutions provide broad access rights to judicial records in criminal and civil  
 22 cases."]; *Estate of Hearst* 67 Cal. App. 3d at 782-784; *Pantos v. San Francisco* (1984) 151 Cal.  
 23 App. 3d 258, 262-63.) Similarly, the California Rules of Court apply to all court records, and  
 24 prohibit sealing of records unless a substantial probability exists that the overriding interest will be  
 25 prejudiced if the record is not sealed, the sealing is narrowly tailored, and no less restrictive means  
 26 exist to achieve the overriding interest. (Cal. Rules of Ct., rules 2.550, subd. (d), 2.551.)

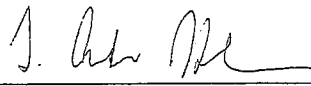
27 Court documents subject to public access under the California Constitution and California  
 28 law include "the various documents filed in or received by the court, such as the pleadings and

1 motions filed by the parties and the evidence admitted in court proceedings.” (*Copley Press, Inc.*  
 2 *v. Superior Court* (1992) 6 Cal.App.4th 106, 113.) The right of access applies because “these  
 3 documents represent and reflect the official work of the court, in which the public and press have a  
 4 justifiable interest.” (*Id.*) The California Rules of Court reiterate this expansive standard, defining  
 5 a “court record” as “all or a portion of any document, paper, exhibit, transcript, or other thing filed  
 6 or lodged with the court.” (Cal. Rules of Ct., rule 2.550, subd. (b)(1).) The Complaint and Filing  
 7 Report are court records subject to public access regardless of which charges the Government  
 8 pursues, and as a court record, the Filing Report must be unsealed.

9 **VI. CONCLUSION.**

10 The sealing of the Filing Report violates the First Amendment and California law. Public  
 11 access to the basis for the charges against the Defendants is a fundamental and vital right. “Public  
 12 records by their very nature are of interest to those concerned with the administration of  
 13 government, and a public benefit is performed by the reporting of the true contents of the records  
 14 by the media. The freedom of the press to publish that information appears to us to be of critical  
 15 importance to our type of government in which the citizenry is the final judge of the conduct of  
 16 public business.” *Cox Broadcasting Corp. v. Cohn* (1975) 420 U.S. 469, 495. The Filing Report  
 17 should be unsealed in its entirety immediately.

18  
 19 Dated: January 26, 2012

20  
 21  
 22 By:   
 23 T. ANDREW HUNTINGTON  
 24 Attorneys for SAN JOSE MERCURY NEWS, LLC  
 25  
 26  
 27  
 28


550

1 T. ANDREW HUNTINGTON, Cal. Bar No. 187687  
2 General Counsel, Bay Area News Group  
3 750 Ridder Park Drive  
4 San Jose, California 95190  
5 Tel (408) 920-5790  
6 Fax (408) 920-1848  
7 ahuntington@bayareanewsgroup.com

8 Attorneys for SAN JOSE MERCURY NEWS, LLC

**FILED**

JAN 24 2012

DAVID H. YAMASAKI  
Chief Executive Officer/Clerk  
Superior Court of Santa Clara County, California  
BY  DEPUTY

Jaymi L. Salisbury

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SANTA CLARA

11 PEOPLE OF THE STATE OF  
12 CALIFORNIA,

13 Plaintiff,

14 v.

15 CRAIG RICHARD CHANDLER,

16 Defendant.

Case No. C1223754

**DECLARATION OF T. ANDREW  
HUNTINGTON IN SUPPORT OF  
MOTION TO UNSEAL FILING  
REPORT**

**DECLARATION OF T. ANDREW HUNTINGTON**

I, T. Andrew Huntington, declare as follows:

1. Except as to matters alleged on information and belief, the following facts are known to me of my own personal knowledge and, if called to testify in a court of law, I could and would testify to them. As to matters stated herein on information and belief, I believe those matters to be true.

2. I am General Counsel of the Bay Area News Group, which operates local newspapers throughout the San Francisco Bay Area, including the San Jose Mercury News ("Mercury News").

3. The Mercury News is distributed throughout California, and particularly in the San Francisco Bay Area. The Mercury News is distributed in a variety of public places, including through home delivery, mail distribution, newsracks, newsstands, and bookstores. Mercury News content is also published on the internet through the Mercury News website, <http://www.mercurynews.com/>.

4. The Mercury News has covered Defendant Craig Richard Chandler's ("Defendant" or "Mr. Chandler") January 10, 2012 arrest and subsequent January 13, 2012 arraignment on charges of sexually assaulting two seven year old girls at O.B. Whaley Elementary School, where Defendant was a teacher. It has published three articles covering Mr. Chandler's case. Those articles are not inflammatory or sensationalistic. The January 11 article on his arrest and the January 13 article covering on his arraignment are factual in nature, and between the two articles, contain only one reference to the specific factual allegations. The third article, published on January 12 and titled "Parents Shocked at Arrest of San Jose Teacher on Sexual Assault Charges," focused on Chandler's popularity amongst students and their parents at the O.B. Whaley Elementary School where he taught, and how the school community was surprised by his arrest. True and correct copies of those articles are attached hereto as Exhibit 1.

5. The Mercury News is informed and believes that the Santa Clara County District Attorney's Office filed the original complaint ("the Complaint") in this matter on

1 January 13, 2012. Attached hereto as Exhibit 2 is a printout of the Superior Court of  
2 California, County of Santa Clara criminal Case Index Search results for defendant Craig  
3 Richard Chandler showing that a complaint was filed against Mr. Chandler on January 13,  
4 2012.

5 6. The Mercury News is informed and believes that when filing the Complaint,  
6 the Santa Clara County District Attorney's Office simultaneously submitted a report  
7 prepared by the San Jose Police Department ("the Filing Report") that contained  
8 summaries of the alleged victims' accounts of the alleged assaults.

9 7. The Mercury News is informed and believes that at Defendant's January 13,  
10 2012 arraignment hearing, Defendant asked the court to seal the Filing Report. The court  
11 granted Defendant's request and ordered the Filing Report sealed. In granting Defendant's  
12 request to seal, the court did not provide any written order providing a factual basis or  
13 reasoning in support of its decision.

14 8. The Mercury News is informed and believes that on or about On January 17,  
15 2012, the court, on its own motion, scheduled a hearing for January 20, 2012, in order to  
16 reconsider Defendant's sealing request. At the January 20, 2012 hearing, the court  
17 disagreed with Defendant, and held that the Filing Report was part of the court's file, and  
18 had been considered by the court in denying bail to the Defendant. The court then ordered  
19 an additional hearing on the issue of Defendant's request to seal the Filing Report, to take  
20 place on January 31, 2012.

21 9. The Mercury News is informed and believes the Santa Clara County District  
22 Attorney's Office will not take a position on the unsealing the Statement of Facts.

23 10. The Mercury News is informed and believes that Defendant will oppose  
24 unsealing the Filing Report.

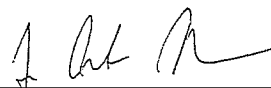
25 11. Attached hereto as Exhibit 3 is a true and correct copy of California  
26 Department of Finance Report E-1: County/State Population Estimates with Annual  
27 Percent Change, January 1, 2010 and 2011.

28



1           12. Attached hereto as Exhibit 4 is a printout of  
2 <http://www.courts.ca.gov/2179.htm#tab7750>, the California Courts website containing  
3 information on qualifications for jury service.

4           I declare under penalty of perjury under the laws of the State of California that the  
5 foregoing is true and correct. Executed on January 12, 2012, at San Jose, California.

6  
7 

8 \_\_\_\_\_  
T. Andrew Huntington

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28 554

1

555

San Jose Mercury News • West Valley January 11, 2012

## LOCAL NEWS

INTRODUCING  
BAY AREA  
NEWS APPS  
Download Bay Area News  
for your iPad and iPhone

MORE LOCAL NEWS: WWW.MERCURYNEWS.COM WWW.SANMATEOCOUNTYTIMES.COM

## FAITH IN THE SOUTH BAY



Members of Campbell United Methodist Church gather for an African Epiphany service Tuesday in Campbell. The church has about 100 members, and about 100 people have become part of the church's growing faith.

## Integration epiphany

West African immigrants have become an integral part of church in Campbell after escaping war

By Joe Rodriguez  
jrodriguez@mercurynews.com

Twenty-five years ago, the Koppa fled from a bloody civil war in Liberia to a nearby white, middle-class, Methodist church in Campbell.

"I was the first West African man of them I had ever met," said Koppa, who had never set foot in the valley before. "I went to that church because someone I knew in Liberia told me I would find a spiritual home there."

He did and then some.

On Sunday, Campbell United Methodist Church celebrated an African Epiphany service. Some three dozen West Africans in colorful traditional shirts and headwraps performed a play that told the story of the Three Kings' visit to the Christ child with prayers and song in the Krio dialect.

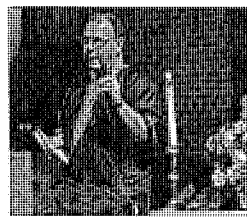
At the altar, Harriet Martineau, of Sierra Leone, began the Lord's Prayer.

"Papa God, we do no sin. No Yu was given us God" (Our Father who art in heaven, hallowed be thy name).

By now accustomed to the annual African service, the congregation roared along with her, a bit hushed but without missing too many words.

The group Koppa started now numbers 40 men, women and children, and has become an official min-

See CHURCH, Page 7



The Rev. James Misher delivers a sermon during the annual African Epiphany service at the Campbell church.

"We believe in integration. We are one. We don't want to separate ourselves and leave this church."

—The Rev. Daniel Sahr Glanderson

ONLINE  
Read more about Campbell at [www.mercurynews.com/campbell](http://www.mercurynews.com/campbell).

## HIGHER EDUCATION

## Overhaul at colleges on the table

Legislature will review plan for big changes at community campuses

By Terence Chao  
tchao@mercurynews.com

SAN FRANCISCO — California community college leaders have agreed off on major policy changes aimed at boosting graduation and transfer rates in the 12-campus system, despite concerns the measures could hurt disadvantaged students.

The 22 recommendations will go to the state Legislature for review after the California Community Colleges governing board on Monday endorsed the measures recommended by the state-appointed Student Success Task Force.

Backers believe the proposals, if implemented, will help more students complete degree and certificate programs and transfer to University of California and California State University campuses. That would help reduce the number of dropouts and create a

more educated workforce.

"We're really doing all that we can to ensure student success," Chancellor Jack Scott said Tuesday. "We want to have as few casualties as possible."

Measures endorsed by the board would:

- Give priority registration to first-time students and students making progress toward their academic goals.
- Take priority registration or for transfers from students who fail to make

See COLLEGE, Page 7

## FOOTBALL IN SANTA CLARA

## Stadium parking lot issue resolved

City Council approves deal with Cedar Fair to build new 49ers home and let fans park cars on Great America space

By Sam McElister  
smc@mercurynews.com

In the latest step toward the rocky journey toward a new 49ers stadium, the Santa Clara City Council on Tuesday night approved a deal that allows the football team to build the stadium on a Great America parking lot and use fans' cars on game days.

Tuesday's 4-2 vote ends four years of controversy over parking involving the stadium and Great America, which is owned by Cedar Fair.

The issue has been a central concern for both stadium project leaders and opponents, many of whom fear there will be major traffic headaches in the area on game days.

All these agreements are heading in the right direction and adding value to our city," said Councilwoman Lisa Gillmer. "This parking agreement will create value for our city and create future revenue for our city."

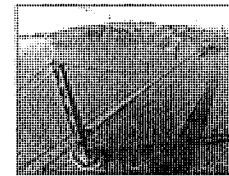
Under the newly approved deal, these fans will be able to park in most of Great America's main lot, which will be reconfigured to include as many as 7,000 spaces. Additional parking will be in two nearby city garages.

Carl Deane, wearing a black 49ers jacket, spoke in support of the stadium agreement between the city and Cedar Fair last night. Council members to "aggressively communicate" with the public about the progress and benefits of the stadium.

A really dramatic communication plan (a) ex-

See STADIUM, Page 7

## GOLDEN'S ANNIVERSARY



## Bridge's legend spans 75 years

The Golden Gate Bridge opened 75 years ago, and San Francisco is planning a year-long celebration to mark the anniversary. But it won't include a mass march across the span. Read more on Page 2.

## O.B. WHALEY ELEMENTARY

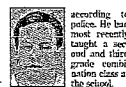
## S.J. teacher facing sexual abuse charge

Educator suspected of assaulting child is held without bail

By Tracy Seipel  
tseipel@mercurynews.com

San Jose police on Tuesday arrested a 35-year-old male elementary schoolteacher on suspicion of sexually assaulting a child last year.

Clark Richard Chandler, of San Jose, has been a teacher at O.B. Whaley Elementary School for the past nine years.



according to police. He had most recently taught a second and third grade combined class at the school.

San Jose police spokesman Jose Garcia said investigators did not release any details about the victim's name, age or gender — or whether

See ARREST, Page 9

## NETWORKING ONLINE

## IBM taps students' social savvy

Big Blue turns to SJSU for ideas on connecting Facebook, business tools

By Matt Koppak  
mkoppak@mercurynews.com

College students need not feel guilty about spending hours each day on Facebook or other social networks. Turns out it might help them get a job.

IBM recently started working with San Jose State students to come up with ways the technology giant could use its internal systems to better interact with employees and the public. About 100 graduate stu-

dents and undergraduates in the fall analyzed IBM's social-business tools, learned how to use them and thought of ways they could be improved.

Among their ideas: Use "social business" software to tie together customer-service sites with internal bulletin boards where employees talk to one another.

The company hopes to involve students at more than 20 other universities this year.

The corporate world has come to realize young people are leading a "transformation moment" driven by social networking, said Douglas Holzman, IBM's director of social-business strategy.

"There's something big going on," he said. "Twitter and Facebook have played major parts in the Occupy Wall Street and Arab Spring movements. This phenomenon is taking down governments."

At IBM's Global Business Services, he is considering how to implement some of the San Jose students' ideas.

"How great is that?" said Larry Goddard, San Jose State instructor who worked with IBM on the university program. "It's not throwaway education. It's an essay that will go into the circular file."

See IBM, Page 9





San Jose Mercury News • Thursday, January 12, 2012

Valley

# LOCAL NEWS

MORE LOCAL NEWS: WWW.MERCURYNEWS.COM WWW.SANMATEOCOUNTYTIMES.COM



## Just say no to another stadium vote

Just say no. It's the facile advice we give to kids to avoid drugs, to the gambler who craves a bet, even to a parent who yawns for a morsel of absolute after dinner. Much of the time, and, the command does not change our behavior. Temptation is always with us. But if you live in the city of Santa Clara, you have an opportunity over the next few days to repeat those three words for a noble reason — and with no hope, poverty. Just say no to the referendum that seeks another vote on the arena stadium.

You might know about this if you've frequented a grocery store or the main Santa Clara post office over the past week-end. You certainly do if you're on the receiving end of the opponent's emails. The petition-gatherers are in a frenzy to obtain 4,800 valid signatures, which means they probably have to collect 6,000.

The group that opposes the stadium, Santa Clara Pays Fair, has objected to the way the stadium is financed: A stadium authority is taking out an \$800 million loan, which the opponents say was not adequately disclosed only on to residents.

Here's why your petition-gatherer deserves a polite no. On the big question — whether to have a stadium or not — the voters have spoken. In June 2010, they approved Measure 4, a voluntary proposal that made the stadium possible. You may remember that there was a big fight then. The opponents threw everything including the kitchen sink at the idea. They said it would be too costly. They said it would be too noisy. They said it would cause too much traffic.

The voters didn't buy it. They approved the stadium deal by 56 percent to 42 percent, which in most places qualifies as decisive. Measure 4 directed the city manager to implement the deal — a parking district, financing, dealing with nearby Great America and much more.

## Second bite

Now the opponents are seeking a second bite of the apple. The situation reminds me of a recipe that decides to buy a new oven, only to find the deal held up because their daughter doesn't like the loan.

Naturally, you can question any loan. In this case, Santa Clara Mayor Jamie Matthews said, "Ultimately, the voters are on the hook for this. There is no risk to the taxpayers."

You can disagree. But the big point is that we have representative government for a reason. We don't expect voters to know the ins and outs of a complex loan. We don't expect them to know the best deal with Cedar Fair, which owns Great America. Voters are busy people, with their own household problems.

## Trusting the staff

Having given the overall approval, folks trust these things to a city staff, oversee by the council. If you don't like their work, throw the recipe out. From talking to people in Santa Clara, I would not be surprised if City Attorney Ken Noddy develops an opinion soon, maybe before the weekend, that the referendum is not valid. Not everything can be put legally to the voters. That might throw the issue into the courts.

But you don't have to descend into the weeds of legality to spot a real-world problem at your front door. A friend in Santa Clara put it in simple terms in a recent email.

"This issue was decided, and it's time to close ranks and move on," he wrote. "Dragging out resolutions and controversy re-deciding them seems like a recipe for bringing all progress to a standstill."

Amn. Just say no.

Contact Scott Herhold at sherhold@mercurynews.com or 408-574-6077.

## LEGISLATIVE ANALYST'S BUDGET REPORT

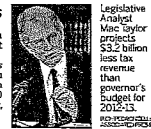
# Brown a 'bit optimistic'

Agency warns governor's tax revenues may fall short, risking programs

By Steven Hansen  
SACRAMENTO — The nonpartisan Legislative Analyst's Office on Wednesday questioned whether Gov. Jerry Brown has put more state programs at risk of further cuts by projecting overly optimistic tax revenues.

Mr. Brown, the legislative analyst, also suggested that the Legislature should consider providing more certainty to schools, which will be on tenterhooks through the year waiting to see whether they can avoid the nearly \$1 billion in cuts that would be "triggered" if voters reject Brown's November tax-like initiative.

Taylor said the governor, who released his \$82.8 billion budget last week, is counting on taxes from investments by the wealthy that might not materialize. "What we're concerned about is that his capital gains assumption is a little bit optimistic," Taylor said at a news conference unveiling the LAO report. "We've looked historically, and we've seen a lot of volatility in the capital gains tax revenue."



See REPORT, Page 4

## INTEL SEMIFINALISTS: Bay Area high schools set record with 29 students winning national achievement, including 11 from The Harker School in San Jose



Sevinda Datta, center, celebrates with fellow students of The Harker School as they are announced as Intel Science Talent Search semifinalists at an assembly. Below, Nicole Datta is congratulated by her brother Nathan and friend Priyanka Sharma.

# Trove of science talent

By Helen Shan

Bay Area high school seniors snagged an astounding 29 spots among the 2012 Intel Science Talent Search semifinalists. It was announced Wednesday.

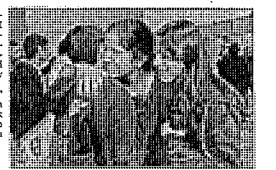
The students — who set a record for the Bay Area — received recognition for research ranging from improving the way airplanes might fly to exploring galaxy formation.

Becoming a semifinalist was a sweet surprise for The Harker School's Kathryn Siegel, whose

project at UC Santa Cruz succeeded despite hitting several speed bumps over the summer. Together with her mentor, she developed a computer program to identify genes that could be targeted with newly developed but poorly characterized synthetic drugs.

"The main lesson I learned," said 17-year-old Siegel, of San Jose, "is that when you think there's no way the project can go anywhere, you just have to keep on working and believe."

See INTEL, Page 6



## FEW FORUM ON RELIGION AND PUBLIC LIFE

# Mormons feel misunderstood but say acceptance is on the rise

By Matt O'Brien

While a Mormonism losing the Republican presidential primary campaign and another in the running, many Mormons in the Bay Area and across the country are warmly optimistic about the national election.

A first-of-its-kind survey by the Pew Forum on Religion and Public Life finds that Mormons feel misunderstood, but they also believe that acceptance of their faith is on the rise.

"Ordinarily, there is a tendency to think Mormons are weird," said Morgan Hill resident Julie Herward.

"I think we all have a tendency to simplify another group of people. If they get to know us, I don't think they

## SURVEY OF U.S. MORMONS

Is Mormonism a Christian religion?

■ 57 percent of Mormons say yes

■ 51 percent of general public says yes

Mormon beliefs

■ 94 percent of Mormons believe that God and Jesus Christ are separate, physical beings

■ 24 percent believe that the president of the church is a prophet of God

■ 95 percent believe families can be bound together eternally in temple ceremonies

Survey continues on Page 4

## FALLOUT AT O.B. WHALEY

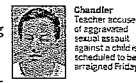
# Sexual assault arrest shocks school's families, educators

Popular teacher held on suspicion of hurting a child on campus

By Sharon Negechi

One day after a popular teacher was arrested on suspicion of sexually assaulting a child, parents, educators and students at O.B. Whaley School in San Jose reacted with shock and disbelief.

Craig Richard Chandler, of San Jose, is scheduled to be arraigned Friday on charges of aggravated sexual assault against a child on the Whaley campus late last year. Police said the alleged abuse occurred from August to



October. They would not give any identifying information about the victim.

Although authorities released right-winged about the arrest, school officials disclosed Wednesday that some of the assaults occurred on school grounds. However, they would not say whether the alleged assaults took place during school

See TEACHER, Page 4



San Jose Mercury News • Saturday, January 14, 2012

## LOCAL NEWS

BAY AREA NEWS APPS  
Download Bay Area News  
for your iPad and iPhone

MORE LOCAL NEWS • WWW.MERCURYNEWS.COM • WWW.SANMATEOCOUNTYTIMES.COM

## POLITICAL SCANDAL

## DA charges new S.F. sheriff



Recently sworn-in San Francisco Sheriff Ross Mirkarimi and his wife, Diana Lopez, leave City Hall after speaking with reporters Friday.

Former supervisor  
accused of domestic  
violence against wife

By Josh Richman

Folklore Photo by Greg DeGuzman

Less than a week after being sworn into office, San Francisco Sheriff Ross Mirkarimi was charged Friday with domestic violence and two other misdemeanors in connection with a New Year's Eve dead-end with his wife, a Venezuelan former

telemundo star. District Attorney George Gonsky said prosecutors have also requested an emergency protective order prohibiting Mirkarimi from having contact with his wife and son while police investigate other possible incidents of domestic abuse.

If convicted, Mirkarimi — assuming he renounces his current position to remain in office. "The charges are very unfounded," he told reporters at City Hall. "We will fight the charges."

His wife, Diana Lopez, stood with him and told reporters. "This is unbelievable. I don't have any complaint against my husband."

Lopez had gone to a neighbor's house after the New Year's Eve incident with a bruised arm. Police said the neighbor reported the bruise was the result of Mirkarimi

grabbing his wife during a heated argument.

Mirkarimi later called the episode "a private matter, a family matter" that had been blown out of proportion. But his statement angered some advocates for women and abuse victims, who say that domestic violence should not be dismissed as a "private matter."

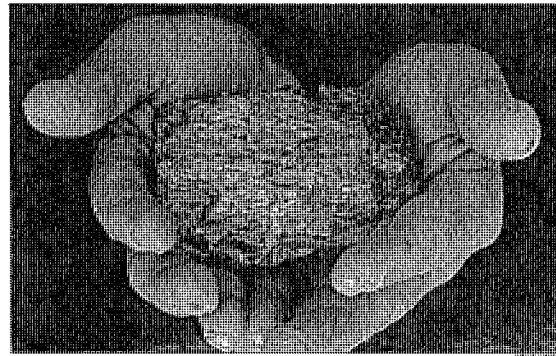
The neighbor's videotape of the bruise as well as text messages between the neighbor and Lopez led Gonsky to charge the 50-year-old Mirkarimi with domestic violence battery, child endangerment, and obstructing a witness.

It was not immediately clear whether the witness was his wife or

See MIRKARIMI, Page 8

## ROCK MIGHT BE OUT OF THIS WORLD

## A METEOR, RIGHT?



A meteorite, if Castro Valley, California, is a 300-pound rock that has been in the backyard of a Castro Valley man since the 1960s. The man says the object is a meteorite.

Castro Valley man believes object found in backyard came from space and could be worth a fortune

By Chris De Benedetti

Observer/Photo by Greg DeGuzman

Meteorites plummeting to earth? In Castro Valley?

It wasn't exactly prunes from heaven, but if the smoldering, dark-colored rock discovered on Mitch Medeiros' property did indeed fall from the sky, it may fetch the 50-year-old a fortune. If that is, it's a veritable meteorite.

Whatever it is has turned life upside down for the retired truck driver.

Medeiros said his phone has continued to ring since he told friends his dog — an overripe 3-

year-old black Labrador retriever named Bella — led him Wednesday to a small dirt pile that was growing in the backyard of his Castro Valley home.

"She was the one who found it. I never would have known," he said.

While Bella barked in excitement, Medeiros showed the rock out of a fresh, foot-deep hole. It was glowing "like a barbecue coal," he said.

He ran water to cool the jagged, charcoal-colored rock, which is about 2 inches wide and 4 inches

See METEOR, Page 8

## THE STARS DON'T ALWAYS ALIGN ...

Experts say finding the real deal is a rare occurrence.

"We get these kinds of calls maybe a couple of times a month and, more often than not, it turns out not to be a meteor."

— Lynette Seaver, Lawrence Livermore Lab spokeswoman

## ... BUT ONE MAN HAS FAITH IN THE HEAVENS

The seaver says the rock can't be cut and magnets don't stick.

"It's passed at least three of the tests. It's a meteor."

— Mitch Medeiros, owner of possible meteorite

## WHALEY SCHOOL

## Sex crime hearing for teacher

Educator is arraigned on charges of assaulting two 7-year-old girls

By Lisa Fernandez and Mark Gomez

Aggravated

A San Jose teacher was arraigned Friday on charges he sexually assaulted two 7-year-old girls at O.R. Whaley Elementary School, according to his attorney plans to "aggressively defend."

Orin Richard Chandler, 35, who has taught at the school for nine years, was charged by the Santa Clara County District Attorney's Office with two counts of

lewd and lascivious acts on a child under the age of 14. The district attorney included a multiple victim allegation, which means Chandler could be facing 30 years in

prison if convicted. Chandler, 30 years in life in prison if convicted.

The girls were hospitalized during the assaults, according to a source. Chandler is in jail without bail.

As per Evergreen School District policy, he is on paid administrative leave.

Steve Clark, Chandler's attorney, said his client is "proud to be vigorously defending them."

Chandler, dressed in a brown prison jumpsuit, did not speak during the arraignment. He did not enter a plea, and a plea hearing was scheduled for Jan. 24.

"I don't think the girls even understood exactly what he was doing," said Santa Clara County deputy district attorney Steve Felt. "I think he picked them because they are naive."

During the hearing, Clark asked Judge Allen Danner to seal a police

See TEACHER, Page 8

## 49ERS IN SANTA CLARA

## City attorney: Loan OK not subject to new vote

Anti-stadium group vows to still work on approval's referendum

By Lisa Fernandez

Observer/Photo by Greg DeGuzman

The Santa Clara Stadium Authority's vote on an \$850 million construction loan to build the 49ers stadium is not an action that can be brought before voters, according to the city attorney.

Santa Clara City Attorney Ron Nosky said Friday that the vote is not

subject to a referendum. Nosky said the stadium authority's action was purely an "administrative" act to carry out what the voters approved in June 2010, when the majority of citizens gave their thumbs-up to building a new 49ers stadium near the Great America theme park.

The stadium authority is composed of seven council members.

He said voters that can be put on a referendum are "legislative acts, when a governmental agency makes a new rule, like approving a new development." But carrying something out that was already approved is simply deemed administrative, according to Nosky.

See STADIUM, Page 8

## \$208 MILLION PAYDAY

## N.Y. visit leads to big jackpot

Man seeing relatives purchases winning Mega Millions ticket

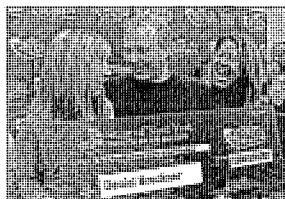
By Jeremy C. Owens

Journal/Photo by Greg DeGuzman

San Jose resident Daniel Bruckner visited relatives in New York for the holidays last month and came home with quite a souvenir: a \$208 million winning lottery ticket.

Bruckner, 38, and his wife, Christine, accepted an overnight check for his Mega Millions win at the Long Island supercenter where he bought the ticket that won the Dec. 27 drawing, according to media and Twitter reports.

See LOTTO, Page 8



Daniel Bruckner, 38, and his wife, Christine, accepted an overnight check for his Mega Millions win at the Long Island supercenter where he bought the ticket that won the Dec. 27 drawing, according to media and Twitter reports.



B5 BAY AREA NEWS GROUP

RICHARD THRELKELD • 1937-2012

## Longtime TV journalist dies

CBS, ABC News veteran covered Vietnam, Gulf War

By Francis Moore  
Associated Press  
NEW YORK — Richard Threlkeld, a long-time and award-winning correspondent who worked for CBS and ABC News during a long career, has been killed in a car crash on New York's Long Island.

The 74-year-old Threlkeld died Friday morning in Anagnanese, N.Y., when his car collided with a propane tanker. He was pronounced dead at Southampton Hospital, according to the local police. He lived in nearby East Hampton.

The driver of the tanker, Earl Fyfe, 46, of Coatesville, Pa., was not injured, said police, who are investigating the accident.

Threlkeld spent more than 25 years at CBS News before retiring in 1998. He was a reporter, anchor and bureau chief who covered the Vietnam War and the Persian Gulf War and the

assassination of Robert F. Kennedy and the execution of Gary Gilmore. He was one of the last journalists evacuated from Phnom Penh and Saigon when those cities fell to the communists in 1975.

CBS News correspondent Bob Simon was with him when Saigon fell.

"Richard was old-school in the best sense," Simon said.

"He really didn't give a damn about being on camera. He didn't do many stunts. He always figured there was more interesting footage than himself."

Threlkeld covered the presidential campaign of candidates ranging from Barry Goldwater and Lyndon Johnson in the 1960s to Bill Clinton in the 1990s. He worked alongside legendary anchor Walter Cronkite for "CBS Sunday Morning" from its inception in 1970, as well as for "The CBS Evening News With Dan Rather" in 1980.

In 1981, he decided to jump to up-and-coming ABC

News without fanfare and without telling CBS.

"I don't like to horse-trade. I'm not a horse," Threlkeld told the Associated Press at the time. "After I decided ABC was the best place for me to go, it would have been wrong to make a verbal agreement and take it back to CBS to see what they could do."

He described CBS as "news — traditional, utterly dependable and very predictable," while ABC "is like a Ferrari — real fast, not always predictable but a lot of fun."

"At this stage of my life," said Threlkeld, then 61, "I'm in a Ferrari mood."

During his career, he won several Emmy and Overseas Press Club awards and an Alfred I. du Pont-Columbia Award.

He is survived by his wife of 28 years, Betty Aaron, a former CBS and CNN correspondent; a brother, Robert, of Port Townsend, Wash.; two children, Susan, of San Francisco, and John, of New York; and two grandchildren.

From that experience, he wrote a book, "Disasters: The Former Evil Empire," which was published in 2001.

His last appearance on CBS was in 2004 on "Sunday Morning" when he came out of retirement to help celebrate the broadcast's 50th anniversary by doing a feature story. Threlkeld originally joined CBS News in 1965.

Born on Nov. 20, 1937, in Cedar Rapids, Iowa, he was raised in Huntington, Ill. He graduated from Ripon (Wis.) College and earned a master's degree from Northwestern University's Medill School of Journalism.

During his career, he won several Emmy and Overseas Press Club awards and an Alfred I. du Pont-Columbia Award.

He is survived by his wife of 28 years, Betty Aaron, a former CBS and CNN correspondent; a brother, Robert, of Port Townsend, Wash.; two children, Susan, of San Francisco, and John, of New York; and two grandchildren.

## Meteor

Continued from Page 1

he kept it in a cabinet for two days and didn't think much of it until he realized he could not answer a nagging question: Why would a normal rock glow?

"I've never seen one like that before," he said. "Medeiros, a married man with three children, telephoned Lawrence Livermore Laboratory for advice Friday morning."

"We got these kinds of calls maybe a couple of times a month and, more often than not, it turns out not to be a meteor," said Lynda Seaver,

a lab spokeswoman. Experts say that reports of meteorites are frequent, but few are valuable materials, feeling the real deal or any object plummeting from the sky — error.

But it's possible, lab scientists told Medeiros. They advised him to chip off a piece of the rock and mail it to the University of New Mexico, where experts will use an electron microscope to determine the rock's properties.

He signed over the rock to a potentially valuable mineral in a bank safe-deposit box.

In the meantime, he filed a report of phone calls from aggressive members of a cult who he previously didn't know existed:

meteorite collectors and dealers. "I not even sees how the item got to me," said Medeiros, who grew up in San Leandro.

Here forms often end up in major museums and have sold for as much as \$1,000 per gram — well above the current price of gold, according to <http://www.rocknet.org>, a meteorite-related website.

But he's not taking on any sales yet. It might be just another rare rock or a piece of an old Russian spacecraft that has turned to junk in recent years.

On the advice of websites and Lawrence Lab scientists, Medeiros said he has put the rock through a number of

tests. A magnet, for example, did not stick to it and its x-ray spectrum showed a few of a hawkeye blade — both good signs, experts told Medeiros.

"It's almost like cutting stainless steel, it just bounces off," he said. "The rock is so resistant it would be difficult for him to break off a sample for official testing. But Medeiros is determined to find out and, he said, he's growing more confident."

"It's passed at least three of the tests," he said. "It's a meteorite."

Contact Chris De Spedding at 408-292-3002. Follow him on Twitter at [twitter.com/chrisdespedding](http://twitter.com/chrisdespedding).

## Mirkarimi

Continued from Page 1

another person. "Whether this was the elected sheriff or any other San Francisco resident, this type of behavior is unacceptable, criminal and will be prosecuted," the district attorney said. He acknowledged that a case may be stronger when a victim is willing to testify, but Gascon also said it's not uncommon to prosecute cases in which the alleged victim is reluctant or afraid to cooperate.

"Regardless of whether the victim supports a prosecution, it is the state's and my office's obligation to ensure the safety of the victim," he added.

While the district attorney said an arrest warrant had been issued for Mirkarimi, the sheriff said he planned to turn himself in for fingerprinting. "We are cooperating," he said.

Veteran San Francisco politician, consultant Newman called the situation "a case of a man being wrongfully charged with a crime by a man who is being misled" by Mirkarimi.

"He's been wronged on his way to being tested," Newman said.

The case has had San Francisco's political establishment on the edge of its

seat for more than week. Mirkarimi, a Green-backed Democrat who had served as a San Francisco supervisor since 2003, mustered the city's progressive vote in heat and his own constituents for the sheriff job in November.

He succeeded Michael Hennessey, who had become an institution by serving as sheriff since 1980, even though he deposited money over the city's progressive vote in heat and his own constituents for the sheriff job in November.

State law provides for Mirkarimi's removal from office only if convicted of a felony, not a misdemeanor.

Mayor Ed Lee has the authority to charge Mirkarimi

with official misconduct and suspend him from office, according to John St. Croix, executive director of the city's Ethics Commission. After possible hearings, the commission could make a recommendation to the board of supervisors about whether to remove him from office.

In a statement issued Friday, the mayor called the charges "unsubstantiated and troubling," and said he would review the facts and opinions of the city and not under the city charter.

Staff writer Brandon Butler and The Associated Press contributed to this report.

Staff writer Brandon Butler and The Associated Press contributed to this report.

Staff writer Brandon Butler and The Associated Press contributed to this report.

Staff writer Brandon Butler and The Associated Press contributed to this report.

Staff writer Brandon Butler and The Associated Press contributed to this report.

## Teacher

Continued from Page 1

report that provided more details about the allegations. Danner ordered the documents sealed.

"I believe it is in Mr. Chandler's best interest in order to get a fair trial to have the police reports, which are just allegations, remain under seal and not available to the public until we have an opportunity to review this case and protect his interest," Clark said.

"We don't believe there is any need for the police reports to be made public at this point, and the judge has agreed," he added.

When police arrested Chandler on Tuesday, investigators indicated one girl reported being sexually abused during the arraignment.

Parents and students at the school described Chandler, who was teaching a combination second- and third-grade class, as a popular teacher.

She said her group was to be out in force on Saturday.

Members of a pro-stadium group, Santa Clara County Economic Progress, praised Noddy's ruling.

"Basically, the small group of opponents will now come to realize that the vast majority of Santa Clara residents want the job, economic benefits and new city revenue that will come from the stadium," the group said.

Some critics have accused Noddy should have recessed

day deadline. She said her group was to be out in force on Saturday.

Members of a pro-stadium group, Santa Clara County Economic Progress, praised Noddy's ruling.

"Basically, the small group of opponents will now come to realize that the vast majority of Santa Clara residents want the job, economic benefits and new city revenue that will come from the stadium," the group said.

Some critics have accused Noddy should have recessed

day deadline. She said her group was to be out in force on Saturday.

Members of a pro-stadium group, Santa Clara County Economic Progress, praised Noddy's ruling.

"Basically, the small group of opponents will now come to realize that the vast majority of Santa Clara residents want the job, economic benefits and new city revenue that will come from the stadium," the group said.

Some critics have accused Noddy should have recessed

day deadline. She said her group was to be out in force on Saturday.

Members of a pro-stadium group, Santa Clara County Economic Progress, praised Noddy's ruling.

"Basically, the small group of opponents will now come to realize that the vast majority of Santa Clara residents want the job, economic benefits and new city revenue that will come from the stadium," the group said.

Some critics have accused Noddy should have recessed

day deadline. She said her group was to be out in force on Saturday.

Members of a pro-stadium group, Santa Clara County Economic Progress, praised Noddy's ruling.

"Basically, the small group of opponents will now come to realize that the vast majority of Santa Clara residents want the job, economic benefits and new city revenue that will come from the stadium," the group said.

day deadline. She said her group was to be out in force on Saturday.

Members of a pro-stadium group, Santa Clara County Economic Progress, praised Noddy's ruling.

"Basically, the small group of opponents will now come to realize that the vast majority of Santa Clara residents want the job, economic benefits and new city revenue that will come from the stadium," the group said.

Some critics have accused Noddy should have recessed

day deadline. She said her group was to be out in force on Saturday.

Members of a pro-stadium group, Santa Clara County Economic Progress, praised Noddy's ruling.

"Basically, the small group of opponents will now come to realize that the vast majority of Santa Clara residents want the job, economic benefits and new city revenue that will come from the stadium," the group said.

Some critics have accused Noddy should have recessed

day deadline. She said her group was to be out in force on Saturday.

Members of a pro-stadium group, Santa Clara County Economic Progress, praised Noddy's ruling.

"Basically, the small group of opponents will now come to realize that the vast majority of Santa Clara residents want the job, economic benefits and new city revenue that will come from the stadium," the group said.

Some critics have accused Noddy should have recessed

day deadline. She said her group was to be out in force on Saturday.

Members of a pro-stadium group, Santa Clara County Economic Progress, praised Noddy's ruling.

"Basically, the small group of opponents will now come to realize that the vast majority of Santa Clara residents want the job, economic benefits and new city revenue that will come from the stadium," the group said.

## Obituary Notices

PLEASE VIEW AND SIGN THE ONLINE GUEST BOOK AT [MERCURYNEWS.COM](http://MERCURYNEWS.COM)

**Obit deadline**  
Please submit obituary notices by 12 noon Monday-Friday for the next day's editions.

**Friends & Family** can express their condolences and sign the guest book at [www.legacy.com](http://www.legacy.com)

**Anderson, William**  
ANTONIOPOULIS, Patricia

**Baldwin, Alice**  
BORDALLO, Emily

**BORNETT, Charles**  
CASTRO, Adam

**COLLINS, Roger**  
DAVIS, George

**BOITE, Dennis**  
ESCARABAL, Marie

**FOULDER, Albert**  
GOLDMAN, Barbara

**HOWARD, Patricia**  
JESSUP, Rita

**JOHNSON, David**  
JUSLIN, Irene

**KOTHE, Mark**  
LEON, Josephine

**LIU, Hsi-Kien**  
MCLEOD, Sally

**NARCISO, Clarence**  
PAYNE, Joseph

**RAY, Jacqueline**  
REITERIA, Herlinda

**ROSE, Rita**  
SEBA, John

**SMITH, Vivian**  
TAKAHASHI, Helen

**WAGNER, Gerald**  
WHITE, Miriam

**WHITT, Elmaria**  
This index may not reflect all obituaries published

**Alice (Rodriguez) Baldwin**

Resident of Santa Clara born in the Valley of Heart's Delight on April 29, 1923. Alice died in Silicon Valley on January 11, 2012. She was the oldest of the eight children of Amante and Simona (Alvira) Rodriguez, immigrants from Mexico, Portugal. She graduated from Santa Clara High School and O'Connor Hospital School of Nursing. She worked as an RN for several medical practices in San Jose until her first child was born in 1951.

In 1947 she married Christopher Baldwin. They had a wonderful partnership that ended with his death in 2001.

Alice was also preceded in death by her sister Rosemary Frances, and her brothers Henry, George, and Tony Rodriguez. She is survived by her sisters Cecilia and Joyce Emily Sachs and Jean Pennington, and her nephews, Norm and Pat Rodriguez.

Alice is also survived by her children David (Gina), Sylvia, and Donna (Gloria); her grandchildren Aurora (Brian), Sofia, George, Angie, and Jennifer; and her great-grandchildren Haley, Kaitlyn, Jonathan and Dominic.

Family and friends are invited to attend a memorial mass for Alice on Sunday, January 14th at 11:00am at St. James' Church, 2655 Homestead Road, Santa Clara, CA 95051. In lieu of flowers, friends would have preferred that you paid off any debt you had or donations that be made in her name to Doctors Without Borders, St. Joseph's Church or a charity of your choice.

**Charles Edward**

BURDET, Sr., Oct. 18, 1943-Jan. 8, 2012. Resident of Berkeley, CA. Visiting: 1-16-17-20 at Jones Funeral Home, 5 Palo Alto, and services will be 1-17/12, 12 noon, Community Church of Palo Alto.

**Adam James Castro**

Feb. 2, 1924 - Jan. 10, 2012

Resident of Santa Clara

Adam died peacefully on January 10 surrounded by family. Adam was a beloved husband to the late Silvia Castro. He is survived by his children, Susan and John, as well as his six grandchildren and eight great-grandchildren.

Visitation, Tue. 1/17/12 at 11 AM at St. James Family Santa Clara, 466 N. Winchester Blvd. Graveside to follow at Santa Clara Mission Cem.

**William Don Anderson, Sr.**

Apr. 6, 1935 - Jan. 4, 2012. Resident of Sunnyvale, CA. Don, as he was known by everyone, was one of the kindest men you could have met. He was an avid golfer. Devoted for his work, and his family. He is survived by his sister, Mary Reiger, brother, Glen Anderson, three children: Kathy, Angela, and Bill; and grandchildren: Kassandra, James, Samantha, and Madison.

We are all content knowing that he is now with his wife, Denise. You will be missed, Don!

A celebration of his life will take place at The Lookout at Sunnyvale, CA 94086 on January 20th at 2 p.m.

**Patricia A. Antonopoulos**

Resident of San Jose. Died on 1/17/12. He was born in Newburgh, NY August 10, 1924. He was preceded in death by his son David. Survived by his wife Mary Alice, sons Kevin (Tracy) and Brian (Gabriella) and eight grandchildren: R.J., Alecia, Karina, Jordan, Brandon, Dylan and Taylor.

Services will be held 2:00 p.m. Sunday January 15th at Stone Church of Willow Glen, 1937 Lincoln Ave. San Jose, CA. In lieu of flowers, please make a donation to the charity of your choice.

**LEON PABLO**

SANTA CLARA HORTICULTARY (408) 296-2877 • [www.santaclearhobby.com](http://www.santaclearhobby.com)

**Roger D. Collins**

Resident of San Jose. Died on 1/17/12. He was born in Newburgh, NY August 10, 1924. He was preceded in death by his son David. Survived by his wife Mary Alice, sons Kevin (Tracy) and Brian (Gabriella) and eight grandchildren: R.J., Alecia, Karina, Jordan, Brandon, Dylan and Taylor.

Services will be held 2:00 p.m. Sunday January 15th at Stone Church of Willow Glen, 1937 Lincoln Ave. San Jose, CA. In lieu of flowers, please make a donation to the charity of your choice.

**Emily Ann Jaffarides Bordinello**

Resident of San Jose. Oct. 24, 1962 - Jan. 3, 2012. Beloved daughter of Lisa Jaffarides and Edward Bordinello, sister of Philip. Friends and family are invited to address at the loss of our daughter Emily in an auto accident. Her intelligence, heart and beautiful smile will be forever remembered. In her short life, she touched many people through her genuine friendship and giving nature.

There will be a celebration of her life on Sunday, January 15, 2012 from 1:30-3:30 p.m. at Villa Riqua, 35 So. 3rd St., Campbell. Should you wish, in lieu of flowers, please donate to her name to HomeFun International, Inc. to help children in child care, orphanage, etc.



**Life Stories Live On**

Find names & photos online at [www.legacy.com](http://www.legacy.com)

See a guest book

Express condolences

Read obituaries

See a guest book

Express condolences

Read obituaries

See a guest book

Express condolences

Read obituaries

See a guest book

Express condolences

Read obituaries

See a guest book

Express condolences





**THE SUPERIOR COURT OF CALIFORNIA**  
**COUNTY OF SANTA CLARA**

**CASE INDEX SEARCH**

Enter search criteria below. **You must enter at least either last name OR case number.** Entering data in the other fields will limit the number of records returned. For help see criminal index information sheet . For information on viewing criminal records, please see our Criminal Self Help section of this website.

For further assistance regarding your case, call the courthouse where the case was filed (see list of courthouses), or email the Court at [sscriminfo@scscourt.org](mailto:sscriminfo@scscourt.org). For technical problems with this website, please email [ssweb@scscourt.org](mailto:ssweb@scscourt.org). **NOTE:** Party ID is not guaranteed to be a unique identifier. Please refer to official Court documents for complete information.

**Search Options:**

Last Name:  First   
 Name   
 Filing Date:   Case Number:   
 Date of Birth:  (mm/dd/yyyy)

1 record(s) found.

Last name	First name	Middle name	Gen	Case number	File date	Party ID
CHANDLER	CRAIG	RICHARD		C1223754	1/13/2012	1138257610

© 2012 Superior Court of Santa Clara County

563



E-1: State/County Population Estimates with Annual Percent Change  
January 1, 2010 and 2011

State/County	Total Population		Percent Change
	1/1/2010	1/1/2011	
California	37223900	37510766	0.8
Alameda	1,509,240	1,521,157	0.8
Alpine	1,178	1,176	-0.2
Amador	38,011	37,911	-0.3
Butte	219,967	221,388	0.6
Calaveras	45,602	45,693	0.2
Colusa	21,380	21,593	1.0
Contra Costa	1,047,948	1,056,064	0.8
Del Norte	28,581	28,594	0.0
El Dorado	180,682	182,498	1.0
Fresno	929,758	940,220	1.1
Glenn	28,120	28,273	0.5
Humboldt	134,353	135,263	0.7
Imperial	174,244	176,258	1.2
Inyo	18,525	18,634	0.6
Kern	837,074	846,883	1.2
Kings	152,717	153,365	0.4
Lake	64,580	64,784	0.3
Lassen	34,794	34,577	-0.6
Los Angeles	9,822,121	9,858,989	0.4
Madera	150,749	151,949	0.8
Marin	252,279	254,692	1.0
Mariposa	18,277	18,261	-0.1
Mendocino	87,807	88,197	0.4
Merced	255,399	257,984	1.0
Modoc	9,666	9,705	0.4
Mono	14,160	14,308	1.0
Monterey	415,108	419,038	0.9
Napa	136,316	137,639	1.0
Nevada	98,682	99,111	0.4
Orange	3,008,855	3,029,859	0.7
Placer	347,133	352,380	1.5
Plumas	20,045	20,025	-0.1
Riverside	2,179,692	2,217,778	1.7
Sacramento	1,417,259	1,428,355	0.8
San Benito	55,272	55,619	0.6
San Bernardino	2,033,141	2,052,397	0.9
San Diego	3,091,579	3,118,876	0.9
San Francisco	804,989	812,820	1.0
San Joaquin	684,057	690,899	1.0
San Luis Obispo	269,333	270,966	0.6
San Mateo	718,614	724,702	0.8

565

California Department of Finance  
Demographic Research Unit  
Phone: 916-323-4086

Santa Barbara	423,740	426,189	0.6
Santa Clara	1,781,427	1,797,375	0.9
Santa Cruz	262,552	264,430	0.7
Shasta	177,248	177,924	0.4
Sierra	3,247	3,248	0.0
Siskiyou	44,962	45,084	0.3
Solano	413,268	414,509	0.3
Sonoma	482,961	487,125	0.9
Stanislaus	514,003	517,685	0.7
Sutter	94,765	95,800	1.1
Tehama	63,418	63,950	0.8
Trinity	13,811	13,853	0.3
Tulare	441,245	446,837	1.3
Tuolumne	55,291	55,256	-0.1
Ventura	822,108	828,383	0.8
Yolo	200,484	201,759	0.6
Yuba	72,083	72,479	0.5

566



Judicial Branch Home

[Courts](#) | [Self-Help](#) | [Forms & Rules](#) | [Opinions](#) | [Programs](#) | [Policy & Administration](#) | [News & Reference](#)

[Courts](#) > [Jury Service](#) > [Jury Service Basics](#)
**JURY SCAM ALERT**

POSTED WEDNESDAY, JANUARY 05, 2011

Please Be Aware: As a result of a resurgence in jury identity theft, this is a reminder that the Administrative Office of the Courts and staff of the superior courts will never ask past or prospective jurors for financial information, credit card numbers, bank account information, personal information like Social Security numbers. Please do not provide this type of information to anyone claiming to be associated with the courts. [MORE >>](#)

**Courts**[Supreme Court](#)[Courts of Appeal](#)[Superior Courts](#)[Jury Service](#)[Jury Service Basics](#)[Learn About the Trial Process](#)[Employer Information](#)[California Jury Instructions](#)[References and Resources](#)[Jury Innovations](#)[About California Courts](#)[Find My Court](#)[FAQs](#)**Jury Service Basics****WHAT TO EXPECT FROM JURY SERVICE**

Often, we don't trust any one person to determine another person's fate. Instead, we trust the community to make the right decision. This is our democratic ideal—to impart justice that is truly of the people, by the people, and for the people. Democracy is made real every day by thousands of jurors across the nation. Most jurors consider it interesting, educational, and an honor to play a part in the fair administration of justice. The juror orientation video, "Ideals Made Real," is typically shown at the courthouse to help you learn more about jury service and your important role in the legal system.

**JUROR BASICS**

You do not need any special skills or legal knowledge to be a juror. All you need is an open mind and a readiness to work with the other jurors to make decisions. You also need to be impartial—in other words, your decisions must not be influenced by personal feelings and biases.

**VIDEO**

"Ideals Made Real"  
California's Juror Orientation Video

14min

[Print](#)

[JURY SERVICE QUALIFICATIONS](#)   [BASIC INFORMATION](#)   [EXCUSE FROM JURY SERVICE](#)

California law says you are qualified to be a juror if you:

- Are a U.S. citizen
- Are at least 18 years old
- Can understand English enough to understand and discuss the case
- Are a resident of the county that sent you the jury summons
- Have not served on a jury in the last 12 months
- Are not currently on a grand jury or on another trial jury
- Are not under a conservatorship
- Have had your civil rights restored if you were convicted of a felony or malfeasance while holding public office

No one is exempt because of his or her job, race, color, religion, sex, national origin, sexual orientation, or economic status.

If you are qualified, please follow the directions on your summons and call in or report as instructed. You will receive additional information when you report for service.

Even if you are qualified to be a juror, you might still have what is called an "undue hardship." An undue hardship is a difficult situation that prevents you from being able to serve.

If you face an undue hardship, you may be able to be excused from jury service or postpone service.

568

1 T. ANDREW HUNTINGTON, Cal. Bar No. 187687  
2 General Counsel, Bay Area News Group  
3 750 Ridder Park Drive  
4 San Jose, California 95190  
5 Tel (408) 920-5790  
6 Fax (408) 920-1848  
7 ahuntington@bayareanewsgroup.com

8 Attorneys for SAN JOSE MERCURY NEWS, LLC

**FILED**

JAN 26 2012

DAVID H. YAMASAKI  
Chief Executive Officer/ Clerk  
Superior Court of CA, County of Santa Clara  
BY Jaymi L. Salisbury DEPUTY

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 FOR THE COUNTY OF SANTA CLARA

11 PEOPLE OF THE STATE OF  
12 CALIFORNIA,

13 Plaintiff,

14 v.

15 CRAIG RICHARD CHANDLER,

16 Defendant.

Case No. C1223754

**PROOF OF SERVICE**

17 I am a resident of the State of California, over the age of eighteen years, and not a  
18 party to the within action. My business address is San Jose Mercury News, 750 Ridder  
19 Park Drive, San Jose, California 95190. On January 26, 2012, I served the within  
20 document(s):

21  
22 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF**  
23 **MOTION TO UNSEAL FILING REPORT;**

24 **DECLARATION OF T. ANDREW HUNTINGTON IN SUPPORT OF**  
25 **MOTION TO UNSEAL FILING REPORT;**



by facsimile transmission at or about on that date. This document

28 569

**PROOF OF SERVICE**



1 was transmitted by using a facsimile machine that complies with California  
 2 Rules of Court Rule 2003(3), telephone number 510.873.8656. The  
 3 transmission was reported as complete and without error. A copy of the  
 4 transmission report, properly issued by the transmitting machine, is  
 5 attached. The names and facsimile numbers of the person(s) served are as  
 6 set forth below.

7 ☒ by placing a true copy of the document(s) listed above for collection  
 8 and mailing following the company's ordinary business practice in a sealed  
 9 envelope with postage thereon fully prepaid for deposit in the United States  
 10 mail at San Jose, California addressed as set forth below.

11 ☐ by depositing a true copy of the same enclosed in a sealed envelope,  
 12 with delivery fees provided for, in a Federal Express pick up box or office  
 13 designated for overnight delivery, and addressed as set forth below.

14 ☐ by personally delivering a copy of the document(s) listed above to  
 15 the person(s) at the address(es) set forth below.

16  
 17 Santa Clara County, Office of the District Attorney  
 18 190 West Hedding St.  
 19 San Jose, CA 95110  
 Attn: Alison Filo

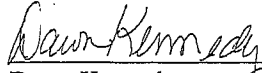
Steven Clark  
 The Law Offices of Steven Clark  
 10 Almaden, Suite 1250  
 San Jose, CA 95113

20 Christopher E. Schumb  
 21 The Law Offices of Christopher E.  
 22 Schumb  
 23 10 Almaden, Suite 1250  
 24 San Jose, CA 95113  
 25  
 26  
 27  
 28

570

1 I served such envelope or package by placing a true copy of the document(s) listed  
2 above for collection and mailing following the company's ordinary business practice in a  
3 sealed envelope with postage thereon fully prepaid for deposit in the United States mail at  
4 San Jose, California addressed as set forth below.

5 I declare under penalty of perjury under the laws of the State of California that the  
6 above is true and correct. Executed on January 26, 2012, at San Jose, California.

7  
8   
9 Dawn Kennedy

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28 571

[illegible]



D30-Set  
PIE  
mailbox

1 T. ANDREW HUNTINGTON Cal. Bar No. 187687  
2 General Counsel, Bay Area News Group  
3 750 Ridder Park Drive  
4 San Jose, California 95190  
5 Tel (408) 920-5790  
6 Fax (408) 920-1848  
7 ahuntington@bayareanewsgroup.com

8 Attorney for SAN JOSE MERCURY NEWS, LLC

**FILED**  
FEB 09 2012  
DAVID H. YAMASAKI  
Chief Executive Officer/Clerk  
Superior Court of CA County of Santa Clara  
By Jaymi L. Salisbury DEPUTY

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF SANTA CLARA

12 PEOPLE OF THE STATE OF CALIFORNIA,

Case No. C1223754

13 Plaintiff,

14 v.

15 CRAIG RICHARD CHANDLER,

**SUPPLEMENTAL MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF MOTION TO UNSEAL  
FILING REPORT**

16 Defendant.

17 Date: February 15, 2012  
18 Time: 9:30-AM 9<sup>00</sup>  
19 Court: Department 30  
20 Judge: Hon. Philip Pennypacker  
21  
22  
23  
24  
25  
26  
27  
28

574

SUPPL. MPA ISO MOTION TO  
UNSEAL FILING REPORT

1  
2 **I. INTRODUCTION**

3 The San Jose Mercury News, LLC (Mercury News) has previously requested that the  
4 Filing Report submitted by the Santa Clara County District Attorney in support of the complaint  
5 and prosecution in this matter be unsealed in its entirety. In support of that request and in  
6 preparation for the January 31, 2012 hearing on this matter, the Mercury News filed its  
7 Memorandum of Points and Authorities in Support of Motion to Unseal Filing Report ("the  
8 Mercury News' January 31, 2012 MPA").

9 The Mercury News is now filing this Supplemental Memorandum of Points and  
10 Authorities in Support of Motion to Unseal Filing Report for the sole purpose of addressing  
11 Defendant's argument that the Filing Report should not be maintained in the Court File. The  
12 Mercury News did not address that argument in its January 31, 2012 MPA because it thought that  
13 the Court had already considered and rejected that argument at the prior January 20, 2012 hearing  
14 on this matter.

15 **II. FACTUAL AND PROCEDURAL SUMMARY**

16 The Mercury News has requested that the Filing Report submitted by the Santa Clara  
17 County District Attorney in support of the complaint and prosecution in this matter be unsealed in  
18 its entirety. In support of that request, the Mercury News filed its January 31, 2012 MPA. In its  
19 motion, the Mercury News did not address Defendant Craig Richard Chandler's (Defendant)  
20 argument that the Filing Report should not be maintained in the Court File because, according to  
21 Defendant, the Filing Report (i) had not been filed properly, and (ii) was "superfluous and  
22 unnecessary" because it was submitted to the Court by the District Attorney for the purpose of  
23 determining bail, and there was no bail motion pending. (Defendant's Memorandum of Points and  
24 Authorities in Support of Application to Seal File ("Defendant's MPA"), 3:2-23). The Mercury  
25 News did not address that specific argument in its January 31, 2012 MPA because it believed that  
26 the Court had already addressed and rejected that argument at the prior January 20, 2012 hearing.  
27 (Declaration of T. Andrew Huntington ("Huntington Decl.,") ¶ 8.).

28 However, at the January 31, 2012 hearing on the Mercury News' motion to unseal,

1 Defendant restated his argument that the Filing Report should not be maintained in the Court File,  
2 and the Court indicated that it was still considering Defendant's argument. Defendant also  
3 requested additional time to respond to the Mercury News' motion, and the Court continued the  
4 hearing on the Mercury News' motion until February 15, 2012. The Mercury News is now filing  
5 this Supplemental Memorandum of Points and Authorities in Support of Motion to Unseal Filing  
6 Report for the sole purpose of addressing Defendant's argument that the Filing Report should not  
7 be maintained in the Court File.

8 **III. LEGAL ARGUMENT**

9 **A. The Filing Report Is Part Of The Court File Regardless Of Whether It Was Filed**  
10 **Properly.**

11 Defendant contends that the District Attorney failed to follow proper filing protocols when  
12 submitting the Filing Report in this matter. Defendant's argument is without merit. Regardless of  
13 whether the District Attorney complied with the court's technical filing requirements, the Filing  
14 Report was deliberately submitted to the Court by the District Attorney, is currently part of the  
15 Court File and was part of the Court File at the time of Defendant's arraignment, when the Court  
16 considered the issues of bail and whether there was probable cause to detain Defendant. The  
17 submission of the Filing Report was hardly remarkable, as evidentiary documents such as the  
18 Filing Report are routinely submitted to courts without first being filed with the Court Clerk. To  
19 the extent the District Attorney failed to comply with the court's filing requirements, that issue (if  
20 any) is between the Court and the District Attorney, and does not serve as a basis for denying the  
21 public its right of access to the Filing Report. Defendant provides no authority for the proposition  
22 that the means by which a record finds its way into the Court's file determines the application of  
23 the First Amendment right of access, and there does not appear to be any such authority.  
24 Therefore, this contention does not provide a basis for rejecting public access to the Filing Report.

25 **B. There Is No Evidence That The Filing Report Was "Superfluous And Unnecessary"**  
26 **And Should Never Have Been Part Of The Court File.**

27 Defendant claims that the District Attorney submitted the Filing Report to the Court for the  
28 sole purpose of determining whether he was eligible for bail. Defendant further contends that



1 because he was charged with crimes and an enhancement that could result in a life sentence, he  
 2 was not eligible for bail and there was no bail motion pending at his January 13, 2012  
 3 arraignment. From there, Defendant apparently concludes that the Filing Report should not have  
 4 been submitted to the Court and the Court never reviewed the document. According to Defendant,  
 5 the public should be denied access to the Filing Report as it was "superfluous and unnecessary,"  
 6 and should never have been part of the Court File.

7 **1. The Assertion That Defendant Is Not Entitled To Bail Appears To Be Inaccurate.**

8 There does not appear to be any authority supporting the claim that a defendant charged  
 9 with a crime that may result in a sentence of life imprisonment must be denied bail. The right to  
 10 bail in California is governed primarily by the California Constitution, and secondarily by statute.  
 11 As a general rule, criminal defendants are entitled to be released on bail, except in specified  
 12 circumstances. (Cal. Const., Art. I, sec. 12; Pen. Code sec. 1270.5, 1271.) Article I, section 12 of  
 13 the California Constitution provides:

14 A person shall be released on bail by sufficient sureties, except for:

- 15 (a) Capital crimes when the facts are evident or the presumption great;
- 16 (b) Felony offenses involving acts of violence on another person, or felony  
 17 sexual assault offenses on another person, when the facts are evident or  
 18 the presumption great and the court finds based upon clear and convincing  
 19 evidence that there is a substantial likelihood the person's release would  
 20 result in great bodily harm to others.
- 21 (c) Felony offenses when the facts are evident or the presumption great and  
 22 the court finds based on clear and convincing evidence that the person has  
 23 threatened another with great bodily harm and that there is a substantial  
 24 likelihood that the person would carry out the threat if released.

25 In other words, the California Constitution expressly requires that criminal defendants be granted  
 26 bail in all cases except those falling within the specified exceptions.

27 Here, the charges against Defendant are not capital crimes, so the claim that he is not  
 28 entitled to bail is apparently based either on section 12(b) of the Constitution, *i.e.*, on the  
 proposition that the crimes charged—two violations of Penal Code section 288(a), alone or  
 including an enhancement pursuant to Penal Code section 667.61(b)—constitute "acts of violence



1 on another person” or “felony sexual assault offenses,” or on section 12(c) of the Constitution, *i.e.*,  
2 that he is charged with an offense involving a threat of great bodily harm. Those subsections,  
3 however, do not appear to be applicable here.

4       Specifically, Penal Code section 292 specifies that certain offenses are “deemed to be a  
5 felony offense involving an act of violence and a felony offense involving great bodily harm.”  
6 Those offenses include a violation of Penal Code section 288(b) (“an act described in  
7 subdivision (a) by use of force, violence, duress, menace, or fear of immediate and unlawful  
8 bodily injury”), but *not* a violation of Penal Code section 288(a), the applicable charge here. A  
9 violation of Penal Code section 288(a) alone does not include any act or threat of violence. While  
10 some of the circumstances supporting an enhancement under Penal Code section 667.61(b) do  
11 involve violence or threats of violence (see Penal Code section 667.61(e)), had Defendant’s crimes  
12 involved such acts, he presumably would have been charged under Penal Code section 288(b).  
13 Defendant, however, was not charged under section 288(b), and thus it appears that the only basis  
14 for asserting that Defendant may be denied bail is that he is charged with a “felony sexual assault  
15 offense” under section 12(c) of the Constitution.

16       Section 12(c) of the Constitution, however, does not mandate the denial of bail here,  
17 because in any non-capital case a defendant may be denied bail only “upon clear and convincing  
18 evidence” of a “substantial likelihood” that “great bodily harm” will be inflicted on others by the  
19 defendant if released on bail. (Cal. Const., Art. I, section 12(b), (c).) Neither section 288 itself  
20 nor section 667.61 make bail unavailable. Thus, the proposition that a defendant charged with a  
21 sexual assault crime, with or without a possible life sentence, is not eligible for bail is simply  
22 incorrect.

23       Defendant may contend that the Santa Clara Superior Court Felony Bail Schedule provides  
24 that in cases involving potential sentences of life imprisonment, defendants may not be released on  
25 bail. However, as the Felony Bail Schedule itself makes clear, it specifies only the default bail  
26 that must be posted by a defendant in order to obtain release prior to a hearing on the appropriate  
27 amount of bail. (See attached, Santa Clara Superior Court Felony Bail Schedule, p. 601.) The  
28 Felony Bail Schedule cannot and does not deprive a criminal defendant of the constitutional right

1 to release on bail. Thus, the assertion that Defendant is not eligible for bail does not appear to be  
2 accurate, and should not act as a basis for denying the public's presumptive right of access to the  
3 Filing Report.

4           **2. That The Filing Report May Have Been Submitted In Error Or May Not Have**  
5           **Been Considered By The Court Is Irrelevant.**

6 Defendant has asserted that the filing report was not considered by the Court. Setting aside  
7 the fact that neither Defendant nor his counsel are in a position to make any assertions regarding  
8 what the Court did or did not consider, their argument is legally irrelevant. Defendant also  
9 apparently contends that the District Attorney was mistaken in believing that the Court could  
10 release Defendant on bail, and that because the District Attorney's reason for submitting the filing  
11 report to the Court was mistaken, the report is not subject to the public's presumptive right of  
12 access. Once again, there does not appear to be any authority supporting that proposition. In any  
13 event, there is no reason to believe either that the District Attorney made a mistake or that the  
14 public's right of access to records of judicial proceedings under the First Amendment and  
15 California law is dependent upon the understanding or intent of the party who submits a  
16 document.

17 First, the courts have rejected the contention that the right of access attaches only if the  
18 court actually considers or relies upon the record at issue. The presumptive right of access applies  
19 to records of judicial proceedings submitted by parties, regardless of whether they were actually  
20 considered or relied upon by the court. (See, e.g., *In re Coordinated Pretrial Proceedings in*  
21 *Petroleum Products Antitrust Litigation* (C.D. Cal. 1984) 101 F.R.D. 34, 43 ["documents that the  
22 judge should have considered or relied upon, but did not, are just as deserving of disclosure as  
23 those that actually entered into the judge's decision"]; *Republic of the Philippines v. Westinghouse*  
24 *Elec. Corp.* (3d Cir. 1991) 949 F.2d 653, 660 [rejecting argument that documents submitted by  
25 plaintiff in support of motion for summary judgment that is denied are not subject to right of  
26 access].) In short, "the filing of a document gives rise to a presumptive right of access."  
27 (*Leucadia, Inc. v. Applied Extrusion Tech., Inc.* (3rd Cir. 1993) 998 F.2d 157, 161-62; *Mokhiber v.*

1 *Davis* (D.C. App. Ct. 1988) 537 A.2d 1100, 1112 [“the presumptive right of access to pleadings  
2 attaches at the time documents are filed with the court”].)

3       Second, there is no basis for the Defendant’s argument that the submission of the filing  
4 report was based on a mistake by the District Attorney. That argument is based on the premise  
5 that the Court had and has no power to release Defendant on bail. As shown above, that premise  
6 is incorrect. Furthermore, the filing report may and should be considered by the Court not only in  
7 determining whether to grant bail, but also in determining whether there is a basis for binding  
8 defendant over for trial. “In California, the state may prosecute a felony ‘either by indictment or,  
9 after examination and commitment by a magistrate, by information.’” (Cal. Const., Art. I, § 14;  
10 see also Pen. Code, §§ 682, 737, 949.)” (*People v. Martinez* (2000) 22 Cal.4th 750, 758.) In  
11 either case, there must be a showing of probable cause to justify binding the defendant over for  
12 trial. (*Cummiskey v. Superior Court* (1992) 3 Cal.4th 1018, 1026-1027.)

13       Finally, the public’s right of access cannot, as a matter of policy and practicality, depend on  
14 the intent or purpose of the party who submits a document to the court for consideration. Such an  
15 approach would require an examination of the subjective state of mind of the filing party in every  
16 case in which access to records of judicial proceedings is sought. There is no justification for  
17 compelling the courts to engage in that kind of mind-reading, and no authority for the proposition  
18 that they should.

19 **IV. CONCLUSION.**

20       The Mercury News maintains that the sealing of the Filing Report violates the First  
21 Amendment and California law. The Filing Report should be unsealed in its entirety immediately.

22 Dated: February 9, 2012

23  
24  
25 By: 

T. ANDREW HUNTINGTON

26 Attorneys for SAN JOSE MERCURY NEWS, LLC

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA**



**2011 Felony Bail Schedule**

#### GENERAL INSTRUCTIONS

It is the duty of the superior court judges in each county to prepare, adopt, and annually revise a uniform countywide schedule of bail for all bailable felony offenses (Penal Code section 1269b(c)). In adopting a uniform countywide bail schedule of bail for all bailable felony offenses the judges shall consider the seriousness of the offense charged (Penal Code section 1269b(e)).

The countywide bail schedule shall contain a list of the offenses and the amounts of bail applicable for each as the judges determine to be appropriate (Penal Code section 1269b(f)). The bail schedule shall contain a general clause for those offenses not specifically listed in the bail schedule. For all felony offenses not listed, the bail amount is \$10,000.

Prior to an appearance before a judge or magistrate, the bail shall be in the amount fixed in the warrant of arrest or, if no warrant of arrest has been issued, the amount of bail shall be pursuant to the uniform countywide schedule of bail.

At the defendant's first appearance before a judge or magistrate on the charge contained in the complaint, indictment, or information, the bail shall be set by the judge at the time of the appearance (Penal Code section 1269b(b)).

Penal Code section 1275 provides that:

In setting, reducing, or denying bail, the judge or magistrate shall take into consideration the protection of the public, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at trial or hearing of the case. The public safety shall be the primary consideration.

When a person is detained in custody on a criminal charge prior to conviction for want of bail, that person is entitled to an automatic review of the order fixing the amount of the bail by the judge or magistrate having jurisdiction of the offense. That review shall be held not later than five days from the time of the original order fixing the amount of bail on the original accusatory pleading. The defendant may waive this review (Penal Code section 1270.2).

Before any person who is arrested to for any of the following crimes may be released on bail in an amount that is either more or less than the amount contained in the schedule of bail for the offense, or may be released on his or her own recognizance, a hearing shall be held in open court before the magistrate, or judge. Felony offenses in which the defendant is not to be released on bail or own recognizance release

without judicial review at a hearing with notice to the District Attorney, if bail is to be more or less than the amount in the Bail Schedule are:

- Any serious felony listed in Penal Code section 1192.7;
- Any violent felony as defined in subdivision (c) of Penal Code section 667.5, (but not including Penal Code section 460(a));
- A violation of Penal Code section 136.1 pursuant to subdivision (c);
- Any felony violation of Penal Code section 262 (Spousal Rape), Penal Code section 273.5 (Domestic Violence), Penal Code section 422 (Threats);
- Any violation of Penal Code Section 646.9 (Stalking);
- Any violation of paragraph (a) of subdivision (e) of Penal Code section 243;
- A violation of Penal Code section 273.6, if the detained person made threats or harm, has engaged in violence against, or has gone to the residence workplace of, the protected party:

Felony offenses in which the defendant is not to be released without judicial review are:

- Any felony where the defendant has (2) two or more serious or violent felony prior convictions (Sections 667(e)(2)(A) & 1170.12(c)(2)(A));
- Any felony sex offense where the defendant has similar prior convictions (Penal Code section 667.71).
- Narcotic felony offense (Sections 11353, 11353.5, 11361, 11380, 11380.5; Health and Safety Code), where defendant has two prison prior convictions of same nature (Penal Code section 667.55)

Felony offenses involving acts of violence on another person, felony sexual assault offenses on another person, and any felony offense where the defendant has threatened another with great bodily harm must be reviewed by the Duty Judge prior to the setting of bail.

The Bail Schedule contemplates the following practice where more than one offense is charged.

- (1) When a defendant is booked on two or more charges arising from the same course of conduct, bail shall be the amount set for the charge having the highest bail.
- (2) When a defendant is booked on two more charges arising from separate courses of conduct, bail shall be the sum of the amount set for the charge in each course of conduct having the highest bail.
- (3) For sex offenses arising from threat or menace, bail shall be the sum of the full amounts set for each charge irrespective of whether the charges arise from a single course of conduct or single transaction.

Where an enhancement or enhancements have been alleged, the listed bail amounts for each enhancement or enhancements should be added to the bail for the underlying offense or offenses.

The examples outlined below demonstrate how to calculate a bail amount when a person is arrested and booked on more than one charge.

#### EXAMPLE #1

This example demonstrates how to calculate the bail amount when a defendant is booked on more than one charge arising out of a single act that precludes multiple punishments.

Charge 1	459PC	\$50,000
Charge 2	496PC	10,000
Charge 3	487PC	10,000

The bail in this example is \$50,000 because the PC 459 charge has the highest bail and all the charges arise from a single act that precludes multiple punishments.

#### EXAMPLE #2

This example demonstrates how to calculate the bail amount when a defendant is booked on more than one charge arising from different acts that permit multiple punishments.

Charge 1	VC 10851	\$10,000
Charge 2	VC 20001	25,000
Charge 3	VC 23153	25,000

The bail amount in this example is \$60,000 because VC 10851, VC 20001, and VC 23153 are separate acts that can be punished separately.



Penal	Offense	Term	Bail
32	Accessory to felony	16 24 36 CJ	½ of underlying felony
67	Bribes, giving or offering to executive officer	24 36 48	25,000
67.5(b)	Bribing ministerial officer	16 24 36	25,000
68	Bribes, executive or ministerial officers	24 36 48	25,000
69	Resisting executive officer	16 24 36 CJ	10,000
71	Threat to injure school official	16 24 36 CJ	10,000
76(a)(1)	Threatening life of government official	16 24 36	25,000
76(a)(2)	Threat to public official with prior	16 24 36	50,000
85	Bribes; giving or offering	24 36 48	25,000
86	Bribes; asking or receiving	24 36 48	25,000
92	Bribes; judicial officers, jurors	24 36 48	25,000
93	Judicial officer or juror accepting bribe	24 36 48	25,000
95.1	Threatening juror after verdict	16 24 36 CJ	25,000
118	Perjury	24 36 48	25,000
136.1(a)	Dissuading a witness or victim from testifying	16 24 36 CJ	25,000
136.1(b)	Dissuading a witness or victim from reporting a crime	16 24 36 CJ	25,000
136.1(c)	Dissuading a witness or victim by threat	24 36 48	50,000

Penal	Offense	Term	Bail
137(a)	Inducing false testimony	16 24 36	25,000
139	Threats to use violence or force against witness or victim	16 24 36 CJ	50,000
140	Threatening witnesses, victims	16 24 36 CJ	50,000
141(b)	Peace officer planting evidence	24 36 48	50,000
148(b),(c),(d)	Removing or taking police officer's weapon	16 24 36 CJ	50,000
148.10	Resisting officer resulting in injury or death	24 36 48 CJ	100,000
149	Officer unnecessarily beats or assaults person	16 24 36 CJ	25,000
165	Bribery; council members, board of supervisors	24 36 48	25,000
182	Conspiracy to commit crime	Same as crime	Same as crime
186.22	Street gang activity	12 24 36	10,000
186.26(a)	Soliciting or threatening another to participate in criminal street gang	16 24 36 CJ	10,000
187,189,190,190.5	Murder First Degree	25 YEARS TO LIFE; DEATH OR LIFE W/O PAROLE	No Bail*
187,189,190,190.5	Murder Second Degree	15, 20 OR 25 YEARS TO LIFE OR LIFE W/O PAROLE	No Bail*
191.5	Gross Vehicular Manslaughter +DUI	48 72 120	100,000

Penal	Offense	Term	Bail
192(a)	Manslaughter – voluntary	36 72 132	25,000
192(c)(1)	Manslaughter – driving vehicle with gross negligence	24 48 72 CJ	25,000
192(c)(3)	Manslaughter – driving without gross negligence +DUI	16 24 36 CJ	25,000
192(c)(4)	Manslaughter while driving for financial gain	48 72 120	50,000
203	Mayhem	24 48 96	50,000
205	Aggravated mayhem	LIFE	No Bail*
206	Torture	LIFE	No Bail*
207(a)	Kidnapping	36 60 96	50,000
207(b)	Kidnapping for purposes of 288 under 14	60 96 132	100,000
209(a)	Kidnapping for ransom or extortion	LIFE	No Bail*
209(b)	Kidnapping for robbery or felony sex offense	LIFE	No Bail*
212.5(a)	Robbery First Degree	36 48 72	50,000
212.5(b)	Robbery First Degree of Person using Teller Machine	36 48 72	50,000
212.5(c)	Robbery Second Degree	24 36 60	50,000
215	Carjacking	36 60 108	50,000
218	Train Wrecking attempt	LIFE	No Bail*
219	Train Wrecking	LIFE	No Bail*

Penal	Offense	Term	Bail
219.1	Hurling missile at common carrier vehicle	24 36 72	10,000
219.2	Hurling missile at train	16 24 36	10,000
220	Assault with intent to commit sodomy, mayhem, oral copulation, or rape	24 48 72	50,000
220(a)	Assault with intent to commit sodomy, mayhem, oral copulation, or rape	24 48 72	50,000
220(b)	Assault with the intent to commit certain sex crimes	LIFE	No Bail*
236-237	False imprisonment by violence	16 24 36	10,000
241.1	Assault against custodial officer	16 24 36 CJ	10,000
241.4	Assault against peace officer of school district	16 24 36 CJ	10,000
243(c)	Battery upon peace officer and causes injury	16 24 36 CJ	10,000
243(d)	Battery with serious bodily injury	24 36 48 CJ	25,000
243.1	Battery upon custodial officer	16 24 36	25,000
243.3	Battery on public transit employee with injury	16 24 36 CJ	25,000
243.4	Sexual Battery	24 36 48 CJ	25,000
243.6	Battery on school employee with injury	16 24 36 CJ	25,000
243.9	Battery by gassing	24 36 48 CJ	25,000

Penal	Offense	Term	Bail
244.5(b)	Assault with stun gun	16 24 36 CJ	25,000
245(a)(1)	Assault with deadly weapon or by means of force to produce GBI	24 36 48 CJ	25,000
245(a)(2)	Assault with firearm	24 36 48 CJ	50,000
245(a)(3)	Assault with machine gun or assault weapon	48 96 144	100,000
245(b)	Assault with semi-automatic weapon	36 72 108	50,000
245(c)	Assault on peace officer by force or weapon not a firearm	36 72 108	25,000
245(d)(1)	Assault on peace officer or firefighter with firearm	48 72 96	50,000
245(d)(2)	Assault on peace officer or firefighter with semi-automatic weapon	60 84 108	100,000
245(d)(3)	Assault on peace officer or firefighter with machine gun or assault weapon	72 108 144	100,000
245.2	Assault with a deadly weapon while on public transit	36 48 60	25,000
245.3	Assault with deadly weapon on custodial officer	36 48 60	50,000
245.5(a)	Assault with a deadly weapon by means of force likely to result in GBI on school employee	36 48 60 CJ	25,000

245.5(b)	Assault with firearm on school employee	48 72 96 CJ	50,000
245.5(c)	Assault with stun gun or taser on school employee	24 36 48 CJ	50,000
245.6	Hazing that causes serious bodily injury	16 24 36 CJ	25,000
246	Shooting at inhabited dwelling, building or aircraft	30 60 84 CJ	100,000
246.3	Discharge of weapon in grossly negligent manner	16 24 36 CJ	25,000
246.3(b)	Willfully discharging a BB device in a grossly negligent manner which could result in injury or death		5,000
247.5	Discharge of laser at aircraft	16 24 36 CJ	25,000
261	Rape	36 72 96	100,000
261.5(c)	Unlawful sexual intercourse	16 24 36 CJ	10,000
261.5(d)	Unlawful sexual intercourse where defendant is over 21 and victim under 16	24 36 48 CJ	25,000
262	Spousal Rape	36 72 96 CJ	100,000
264.1	Rape in concert with force and violence	60 84 108	250,000
266h(b)(1)	Pimping with victim 16 or older		50,000
266h(b)(2)	Pimping with victim under 16		100,000
266i	Pandering	36 48 72	50,000
266i	Pandering with child under 16	36 72 96	100,000
267	Abduction for purposes of prostitution	16 24 36 CJ	50,000

Penal	Offense	Term	Bail
269	Aggravated sexual assault on child under 14 by person 10 years or more older than victim	LIFE	No Bail*
270	Child Neglect	1 YEAR ONE DAY	10,000
273a(1)	Mistreating child likely to produce GBI or death	24 48 72 CJ	50,000
273ab	Assault on child under 8 with GBI or death	LIFE	No Bail*
273d	Corporal Punishment with cruelty or injury	24 48 72 CJ	25,000
273.5	Inflicting corporal injury on spouse, cohabitant	24 36 60 CJ	25,000
273.5(e)(1)	Inflicting corporal injury on spouse, cohabitant with prior conviction	24 36 60 CJ	100,000
273.6	Violating domestic restraining order with prior conviction	16 24 36 CJ	10,000
278	Child stealing	24 36 48 CJ	25,000
286(b)(1)	Sodomy, victim under 18	16 24 36 CJ	50,000
286(b)(2)	Sodomy, without force, victim under 16	16 24 36	50,000
286(c)(1)(2)(3)	Sodomy; with victim 14 or under; by force; or by threat	36 72 96	100,000
286(d)	Sodomy in concert with force and violence	60 84 108	250,000

Penal	Offense	Term	Bail
286(e)	Sodomy in state prison or county jail	16 24 36 CJ	25,000
286(f),(g),(i),(j)&(k)	Sodomy if victim unconscious, or incapable of consent	36 72 96	100,000
288(a)	Lewd act with child under 14	36 72 96	50,000
288(b)(1)(2)	Lewd act with child under 14 by force or fear	36 72 96	100,000
288(c)(1)(2)	Lewd act with child 14 or 15, where defendant is 10 years older than victim	12 24 36 CJ	50,000
288a(b)(1)	Oral copulation with minor	16 24 36 CJ	50,000
288a(b)(2)	Oral copulation where defendant is over 21 and victim is under 16	16 24 36	50,000
288a(c)	Oral copulation where victim in under 14 and defendant is 10 years older than victim; or by force or fear	36 72 96	100,000
288a(d)	Oral copulation in concert with force and fear	60 84 108	250,000
288a(e)	Oral copulation committed in prison or jail	16 24 36 CJ	25,000
288a(f)	Oral copulation where victim is unconscious	36 72 96	100,000
288a(g)	Oral copulation where no legal consent	36 72 96	100,000



Penal	Offense	Term	Bail
288a(i),(j), & (k)	Oral copulation where consent is flawed	36 72 96	100,000
288.2	Distribution or exhibition of lewd material to minor	16 24 36 CJ	25,000
288.3	Meeting with a minor or person believed to be a minor for the purpose of exposing genitals, pubic or rectal areas		10,000
288.3 (second version)	Contacting a minor with the intent to commit certain offenses	Term for the intended offense	50,000
288.3(a)(2)	290 registrant who arranges to meet with a minor or person believed to be a minor for the purpose of exposing genitals, pubic, or rectal areas	16 24 36	25,000
288.3(b)	Anyone who violates 288.3(a)(1) and goes to an arranged meeting place	24 36 48	50,000
288.5	Three or more lewd acts with child under 14	72 144 192	500,000
288.7(a)	Engaging in sexual intercourse or sodomy with a child 10 or younger	25 years to LIFE	NO BAIL*
288.7(b)	Engaging in oral copulation or sexual penetration with a child 10 or younger	15 years to LIFE	NO BAIL*

Penal	Offense	Term	Bail
289(a)	Penetration by foreign object with force and fear	36 72 96	100,000
289(b)	Penetration by foreign object where victim incapable of legal consent	36 72 96	100,000
289(d), (e),(f) & (g)	Penetration by foreign object where consent is flawed	36 72 96	100,000
289(j)	Penetration by foreign object where victim in under 14 and defendant is 10 years older	36 72 96	100,000
289.6	Officer or employee of detention facility engaging in sex with inmate	16 24 36 CJ	50,000
290.013	Sex registrant failure to report address	16 24 36 CJ	25,000
290.014	Sex registrant failure to report name change	16 24 36 CJ	25,000
290.018(b)	Failure to register as sex offender	16 24 36	25,000
290.018(c)	Failure to register as sex offender	16 24 36	25,000
298.2(A)(1)	Knowingly submitting false DNA	24 36 48	25,000
298.2(A)(2)	Knowingly tampering with DNA	24 36 48	25,000
299.5(i)(1)(A)	Knowingly disclosing DNA information	16 24 36 CJ	10,000

Penal	Offense	Term	Bail
311.1, 311.2, 311.4, 311.10	Sending, distributing, bringing, exploitation re: child pornography	16 24 36 CJ	25,000
311.11	Possession of child pornography	16 24 36 CJ	25,000
314(1)	Indecent exposure with prior	16 24 36	10,000
337a	Bookmaking	16 24 36 CJ	5,000
368(b)	Physical abuse of an elder or dependent adult	24 36 48 CJ	25,000
368(d)	Theft from elder or dependent adult	24 36 48 CJ	10,000
368(e)	Theft by caretaker from elder or dependent adult	24 36 48 CJ	10,000
399(a)	Willfully permitting vicious animal to go at large causing death	16 24 36 CJ	50,000
399(b)	Willfully permitting animal to go at large and causing serious bodily injury	16 24 36 CJ	25,000
399.5	Owning or keeping attack dog that has bitten twice before	24 36 48 CJ	25,000
417(c)	Exhibiting firearm in presence of police	16 24 36 CJ	25,000
417.3	Exhibiting firearm in presence of person in motor vehicle	16 24 36	25,000
417.8	Exhibiting firearm or deadly weapon with intent to resist officer	24 36 48 CJ	25,000

Penal	Offense	Term	Bail
422	Terrorist threats	16 24 36 CJ	25,000
424	Embezzlement or falsification of accounts by public officer	24 36 48	25,000
451(a)	Arson with GBI	60 84 108	100,000
451(b)	Arson of inhabited dwelling	36 60 96	100,000
451(c)	Arson of forest land	24 48 72	100,000
451(d)	Arson of property	16 24 36	25,000
451.5	Aggravated Arson	LIFE	No Bail*
452(a)	Reckless arson with GBI	24 48 72 CJ	25,000
452(b)	Reckless arson of inhabited structure	24 36 48 CJ	10,000
452(c)	Reckless arson where prior or GBI	16 24 36 CJ	10,000
453(a)	Possession of explosives or flammable materials	16 24 36 CJ	25,000
455	Attempted arson with GBI	16 24 36	25,000
459-460(a), 461(1)	Burglary First Degree	24 36 72	50,000
459-460(b), 461(2)	Burglary Second Degree	16 24 36 CJ	10,000
464	Burglary with explosives	36 60 84	100,000
470a	Forgery of driver's license	16 24 36 CJ	10,000
470b	Display or possession of forged driver's license or ID	16 24 36 CJ	10,000
471	Forgery in records or returns	16 24 36 CJ	10,000

Penal	Offense	Term	Bail
472	Forgery, telephone messages	16 24 36 CJ	10,000
502.7	Obtaining telephone services by fraud	16 24 36 CJ	10,000
502.8	Uses or possesses telecommunications device to avoid payment with prior	16 24 36	10,000
504	Embezzlement by public officer	16 24 36 CJ	10,000
520	Extortion	24 36 48	25,000
529	False personation	16 24 36 CJ	10,000
529a	Manufacture, sale of false birth certificate	16 24 36 CJ	
530.5	Identity theft	16 24 36 CJ	25,000
530.5(c)(2)	Acquiring or possessing personal identifying information with the intent to defraud with a prior	16 24 36 CJ	25,000
530.5(c)(3)	Acquiring or possessing personal identifying information of 10 or more people	16 24 36 CJ	50,000
530.5(d)(2)	Selling, transferring, or conveying personal identifying information with actual knowledge that information will be used to commit theft	16 24 36 CJ	25,000
532	False pretenses	16 24 36 CJ	10,000
548(a)	Defrauding an insurer	24 36 60	10,000
550(a)	Insurance fraud	24 36 60	10,000

Penal	Offense	Term	Bail
591, 593	Injuring telephone line	16 24 36 CJ	10,000
594(b)(1);594.3; 594.35; 594.4 & 594.7	Vandalism	16 24 36 CJ	10,000
597(a)	Animal fighting with a prior	16 24 36 CJ	10,000
597(b)	Cockfighting with a prior	16 24 36 CJ	10,000
601	Trespass with threat of serious bodily injury	16 24 36 CJ	10,000
626.9	Firearms on school grounds	24 36 60 CJ	25,000
626.10	Weapons on school grounds	16 24 36 CJ	10,000
626.81(b)(1)	290 registrant coming into a school building or ground without lawful business and written permission		5,000
626.81(b)(2)	290 registrant coming into a school building or ground without lawful business and written permission with one prior conviction		10,000
626.81(b)(3)	290 registrant coming into a school building or ground without lawful business and written permission with 2 or more prior convictions		25,000

Penal	Offense	Term	Bail
638	Purchasing, selling or offering to purchase or sell or obtaining through fraud or deceit a telephone record or list		5,000
646.9(a)	Stalking	16 24 36 CJ	50,000
646.9(b)	Stalking in violation of restraining order	16 24 36 CJ	100,000
646.9(c)(1)	Stalking after felony conviction of 273.5, 273.6, or 422	24 36 60	100,000
646.9(c)(2)	Stalking with prior conviction for stalking	24 36 60	250,000
647.6	Child molest with prior conviction	24 48 72	50,000
648	Making, issuing or circulating unauthorized money with prior	16 24 36	10,000
653b(b)(1)	290 registrant loitering near a school or public place where children congregate		5,000
653b(b)(2)	290 registrant loitering near a school or public place where children congregate with 1 prior		10,000
653b(b)(3)	290 registrant loitering near a school or public place where children congregate with 2 or more priors		25,000

Penal	Offense	Term	Bail
653c(d)(1)	290 registrant for sex crimes against elders or dependent adults who enter a day care or residential facility where elders or dependent adults are present		5,000
653c(d)(2)	290 registrant for sex crimes against elders or dependent adults who enter a day care or residential facility where elders or dependent adults are present with 1 prior		10,000
653c(d)(3)	290 registrant for sex crimes against elders or dependent adults who enter a day care or residential facility where elders or dependent adults are present		25,000
653f(a)	Solicitation to commit robbery, burglary, grand theft, etc	16 24 36 CJ	Same as target offense
653f(b)	Solicitation to commit murder	36 72 108	500,000
653f(c)	Solicitation to commit rape, sodomy, etc.	24 36 48	Same as target offense
653f(d)	Solicitation to commit drug sales	16 24 36 CJ	Same as target offense
653f(e)	Solicitation to commit welfare fraud	16 24 36 CJ	Same as target offense



Penal	Offense	Term	Bail
653j	Solicitation of minor to commit certain crimes	36 60 84	50,000
664/187	Attempted Murder	LIFE	No Bail*
664	Attempt – Other crimes	Same as underlying crime	½ of completed crime
666	Petty Theft with prior	16 24 36 CJ	5,000
666.5	Prior Theft of auto	36 48 60	25,000
1320(b)	Failure to appear after O.R. release	16 24 36 CJ	10,000
1320.5	Failure to appear after release on bail	16 24 36 CJ	10,000
4530(a)	Escape, attempted escape from prison with force or violence	24 48 72	No Bail*
4530(b)	Escape, attempted escape from prison without force or violence	16 24 36 CJ	No Bail*
4532(a)(1)	Escape, attempted escape by misdemeanor from jail	1 year and 1 day	25,000
4532(a)(2)	Escape from jail with force or violence	24 48 72	No Bail*
4532(b)(1)	Escape, attempt escape by felon from jail	16 24 36 CJ	50,000
4532(b)(2)	Escape from jail by felon with force or violence	24 36 72	No Bail*
4573, 4573.5, 4573.6, 4573.8, & 4574	Introducing contraband substances, devices or weapons into jail	16 24 36	25,000

Penal	Offense	Term	Bail
4573.9	Selling or giving drugs to inmate	24 36 72	25,000
11413	Use of explosives to terrorize in certain places	36 60 84	1,000,000
11418;11418.5; &11419	Possessing, use and carrying weapons of mass destruction and biological agents	60 120 180	1,000,000
12020	Dangerous weapons, manufacture, sale, possession; concealed dirk or dagger on person	16 24 36 CJ	5,000
12020	Possession of sawed off shotgun	16 24 36 CJ	25,000
12021(a)(1)	Ownership or possession of firearm by felon	16 24 36	10,000
12021(a)(2)	Ownership or possession of firearm by person with 2 or more 417 priors	16 24 36	10,000
12021(c)(1)	Ownership or possession of firearm by certain misdemeanants	16 24 36 CJ	10,000
12021(g)(1)	Ownership or possession of firearm by person previously convicted of violent felony	16 24 36	50,000
12023	Carrying loaded firearm with intent to commit felony	16 24 36 CJ	50,000

Penal	Offense	Term	Bail
12025 & 12031	Possession of a concealed or loaded firearm by felon; street gang member; if weapon known to be stolen; or by person not authorized to possess	16 24 36	25,000
12034(b) or (c)	Willful and malicious discharge of firearm from vehicle	16 24 36 CJ	100,000
12040	Carrying a firearm in public while masked	16 24 36 CJ	50,000
12072	Unlawful delivery of firearm to purchaser	16 24 36 CJ	10,000
12076	Knowingly furnishing a fictitious name or address when attempting to purchase a firearm from a dealer	8 12 18 CJ	10,000
12303	Possession of destructive device	16 24 36 CJ	50,000
12303.1	Carrying or placing a destructive device on transportation vehicle	24 48 72	250,000
12303.2	Possession of destructive device in public place	24 48 72	250,000
12303.3	Exploding bomb or destructive device for purpose of terrorism	36 60 84	500,000

Penal	Offense	Term	Bail
12308	Exploding bomb or destructive device with intent to murder	60 84 108	No Bail*
12309	Exploding bomb or destructive device which causes GBI	60 84 108	1,000,000
12310(a)	Exploding bomb or destructive device which results in death	LIFE	No Bail*
12310(b)	Exploding bomb or destructive device resulting in mayhem or GBI	LIFE	No Bail*
12312	Possession of material to make bomb or destructive device	24 36 48	50,000
12316	Felon in possession of ammunition	16 24 36 CJ	10,000
12403.7	Illegal use of tear gas/tear gas weapon on peace officer	16 24 36 CJ	25,000
12355(a)	Making or placing a booby trap	24 36 60	100,000
12355(b)	Possession with intent to use booby trap	16 24 36 CJ	50,000
11350	Possession controlled substance	16 24 36	10,000
11351	Possession of controlled substance for sale	24 36 48	25,000
11351.5	Possession for sale cocaine base	36 48 60	25,000
11352(a)	Transportation, sale, furnishing controlled substance	36 48 60	25,000

Penal	Offense	Term	Bail
11352(b)	Transportation for sale to noncontiguous counties	36 72 108	25,000
11353	Adult inducing minor to violate provisions of drug laws; use or employment of minors to sell drugs	36 72 108	50,000
11353.5	Providing a minor controlled substances not under 11353 or 11380	60 84 108	50,000
11353.7	Preparation for sale or sale to minor under 14 in public park	36 72 108	50,000
11354	Use of person 18 or older of minor in sale, transportation, giving, any narcotic to a minor	16 24 36	50,000
11355	Sale or furnishing substance falsely represented	16 24 36 CJ	5,000
11357(a)	Possession of concentrated cannabis	16 24 36 CJ	5,000
11358	Marijuana cultivation or processing	16 24 36	10,000
11359	Marijuana: possession for sale	16 24 36	10,000
11360(a)	Marijuana: transportation, sale, furnishing	24 36 48	10,000

Health and Safety	Offense	Term	Bail
11361(a)	Marijuana: Use by person 18 or older of minor in sale, transportation, etc., of marijuana; or sale or furnishing to minor under 14	36 60 84	50,000
11361(b)	Marijuana: Sale or furnishing of marijuana by person 18 or older to minor 14 years or older	36 48 60	25,000
11363	Planting, harvesting, cultivating peyote	16 24 36 CJ	10,000
11366 & 11366.5	Maintaining a place for sale or use of illegal drugs	16 24 36 CJ	5,000
11366.6	Use of location to suppress law enforcement entry	36 48 60	25,000
11366.8	False compartment to conceal controlled substance	16 24 36 CJ	5,000
11368	Narcotic drug: forging, altering prescription	16 24 36 CJ	10,000
11370.1	Possession of controlled substance and loaded firearm	24 36 48	25,000
11370.6	Possession of more than \$100,000 for of from the purchase of controlled substance	24 36 48 CJ	250,000
11377	Possession of controlled substance	16 24 36 CJ	10,000
11378	Possession of controlled substance for sale	16 24 36	10,000
11378.5	Possession of PCP for sale	36 48 60	25,000

Health and Safety	Offense	Term	Bail
11379(a)	Transportation, sale, or manufacturing of controlled substance	24 36 48	25,000
11379(b)	Transport for sale of controlled substance to non-contiguous county	36 72 108	25,000
11379.5(a)	Transportation, sale or manufacturing of PCP	36 48 60	25,000
11379.5(b)	Transport for sale of PCP to non-contiguous county	36 72 108	25,000
11379.6	Manufacture of other controlled substance	36 60 84	100,000
11380	Adult using minor as agent for sale of drugs; inducing minor to violate drug laws; furnishing to minor	36 72 108	50,000
11382	Sale or furnishing of substances falsely represented to be controlled substances	16 24 36 CJ	10,000
11383	Possession of certain chemicals with intent to manufacture methamphetamine	24 48 72	100,000
11383(a)(b)(c)(d)	Possessing certain chemicals with intent to manufacture phencyclidine	24 48 72	100,000
11383.5(a)(b)(c)(d)(e)(f)	Possessing certain chemicals with intent to manufacture methamphetamine	24 48 72	100,000

Health and Safety	Offense	Term	Bail
11383.6(a)(b)(c)(d)	Possession of certain chemicals with intent to sell, transfer, or furnish with knowledge it will be used to manufacture PCP	16 24 36	100,000
11383.7(a)(b)(c)(d)(e)(f)	Possession of certain chemicals with intent to sell, transfer, or furnish with knowledge it will be used to manufacture methamphetamine	24 36 48	100,000
11390	Cultivation of mushrooms for controlled substances	16 24 36 CJ	10,000
11391	Transportation of mushrooms	16 24 36 CJ	10,000



Welfare and Inst.	Offense	Term	Bail
10980	Fraud in obtaining welfare assistance; AFDC; food stamps	16 24 36 CJ	5,000
120291	Knowingly exposing another to HIV by engaging in unprotected sex		50,000

Vehicle	Offense	Term	Bail
2800.2	Reckless driving in flight to avoid a pursuing peace officer	16 24 36 CJ	25,000
2800.3	Reckless driving in flight to avoid a pursuing peace officer resulting in death or GBI	36 48 60 CJ	100,000
2800.4	Willfully fleeing or attempting to elude a pursuing peace officer in violation of VC 2800.1 while driving on the wrong side of the road	16 24 36	25,000
4463	False evidence of registration	16 24 36 CJ	10,000
10801	Owing or operating a chop shop	24 36 48 CJ	25,000
10803(a)	Buying, selling or possessing vehicle with altered ID number	24 48 72 CJ	10,000
10851(a)	Driving or taking car without consent	16 24 36 CJ	10,000
10851(b)	Driving or taking emergency vehicle	24 36 48	25,000
10851(e)/666.5	Driving or taking car without consent with prior conviction	24 36 48	25,000
20001(b) (1)	Hit and run with injury	16 24 36 CJ	25,000
20001(b) (2)	Hit and run with death or permanent serious injury	24 36 48 CJ	50,000
23104(b)	Reckless driving with GBI and prior	16 24 36 CJ	100,000

Vehicle	Offense	Term	Bail
23105	Recklessly driving in violation of 23103 that proximately causes specified injuries to another	16 24 36 CJ	100,000
23109.1	Engaging in speed contest in violation of 23109 that proximately causes specified injuries to another	16 24 36 CJ	100,000
23152/23550	DUI with Three of more prior DUI's within 10 years	16 24 36 CJ	100,000
23152/23550.5	DUI with prior felony 23152, prior felony 23153, or prior felony 191.5 or 192, within 10 years	16 24 36 CJ	100,000
23153	DUI causing injury (no priors)	16 24 36 CJ	25,000
23153 with one prior 23103.5, 23152, or 23153	DUI causing injury with one prior	16 24 36 CJ	50,000
23153 with two prior 23103.5, 23152, or 23153	DUI causing injury with two priors	24 36 48	100,000

Business and Profs.	Offense	Term	Bail
4060	Possession of controlled substances without a prescription	16 24 36 CJ	5,000
4390	Altering or forging prescription or possessing drug obtained by such prescription	16 24 36 CJ	5,000
17550.14(a)	Travel Service failing to reimburse	16 24 36 CJ	5,000

Labor	Offense	Term	Bail
6425	Violating OHSA order	16 24 36 CJ	5,000 person
			10,000 corporation

Insurance	Offense	Term	Bail
1871.4	Worker's compensation fraud	16 24 36 CJ	10,000

Elections	Offense	Term	Bail
18101	Registration of fictitious person	16 24 36 CJ	5,000

Government	Offense	Term	Bail
67600	Non-duly authorized notary public	16 24 36 CJ	5,000

## Enhancements

Penal	Offense	Term	Bail
186.22 (b)(1)(A)	Committing felony as part of street gang activity	2 3 4 YRS	10,000
186.22(b)(1)(B)	Committing serious felony as part of street gang activity	5 YRS	25,000
186.22(b)(1)(C)	Committing violent felony as part of street gang activity	10 YRS	100,000
422.75(a)	Hate crime	1 2 3 YRS	10,000
422.75.(b)	Hate crime in concert	2 3 4 YRS	25,000
451.1	Felony arson	3 4 5 YRS	100,000
452.1	Arson with prior conviction of 451 or 452	1 2 3 YRS	50,000
667(a)	Prior serious felony (Prop. 8 prior)	5 YRS	50,000
667(e)(1)	One serious or violent prior (Strike prior)		50,000
667(e)(2)(A)	Two or more serious or violent priors (Strike priors)		No Bail*
667.5(a)	Violent prison prior	3 YRS	25,000
667.5(b)	Prison prior	1 YR	10,000
667.51(a)	PC 288 with one prior sex offense	5 YRS	50,000
667.6(a)	Prior forcible sex offense	5 YRS	50,000
667.6(b)	Prior forcible sex offense with prison commitment	10 YRS	100,000
667.61	Felony sex offenses with certain priors or circumstances	LIFE	No Bail*

## Enhancements

Penal	Offense	Term	Bail
667.7	Habitual offenders	LIFE	No Bail*
667.71	Habitual sex offenders	LIFE	No Bail*
667.75	Habitual drug offenders	LIFE	No Bail*
667.8(a)	Kidnapping for sex offense	9 YRS	100,000
667.8(b)	Kidnapping of minor under 14 for sex offense	15 YRS	250,000
667.85	Kidnapping of child under 14 to permanently deprive parents	5 YRS	50,000
667.9(a)	Serious felony committed on victim, disabled, under 14, or over 65	1 YR	25,000
667.9(b)	Serious felony committed on victim, disable, under 14, or over 65 with prior conviction of serious felony	2 YRS	50,000
667.10	PC 289 on disable victim or on victim over 65 or under 14	2 YRS	50,000
667.15(a)	Exhibiting sex acts of a minor to a minor to commit 288	1 YR	10,000
667.15(b)	Exhibiting sex acts of a minor to a minor to commit 288.5	2 YRS	10,000
674(a)	Felony sex offense on minor by day care provider	2 YRS	50,000

## Enhancements

Penal	Offense	Term	Bail
674(b)	Felony sex offense on minor by day care provider in concert	3 YRS	100,000
12021.5(a)	Carrying firearm in street gang crime	1 2 3 YRS	25,000
12021.5(b)	Carrying assault weapon in street gang crime	2 3 4 YRS	50,000
12022(a)(1)	Committing Felony when armed with firearm	1 YR	25,000
12022(a)(2)	Committing felony when armed with assault weapon or machine gun	3 YRS	50,000
12022(b)(1)	Committing felony and personally uses a deadly or dangerous weapon	1 YR	10,000
12022(b)(2)	Personally uses a deadly or dangerous weapon and convicted of carjacking	1 2 3 YRS	25,000
12022(c)	Personally armed with a firearm while engaged in sale or possession of sale of controlled substances	3 4 5 YRS	25,000
12022(d)	Principal in narcotic sales case knowing another principal is armed with firearm	1 2 3 YRS	10,000
12022.1	Offense committed while on bail or O.R.	2 YRS	25,000
12022.2(a)	Armed with firearm having armor	3 4 10 YRS	100,000

## Enhancements

Penal	Offense	Term	Bail
	piercing ammunition		
12022.2(b)	Wearing body vest during commission of violent offense	1 2 5 YRS	50,000
12022.3(a)	Use of deadly weapon or firearm during commission of sex crime	3 4 10 YRS	100,000
12022.3((b)	Armed with deadly weapon or firearm during commission of sex crime	1 2 5 YRS	50,000
12022.4	Supplying firearm for use in felony	1 2 3 YRS	25,000
12022.5(a)	Personal use of firearm during commission of felony	3 4 10 YRS	25,000
12022.5(b)	Personal use of assault weapon or machine gun during commission of felony	5 6 10 YRS	100,000
12022.53(b)	Personally uses firearm for certain offenses	10 YRS	100,000
12022.53(c)	Personally and intentionally discharges a firearm for certain offenses	20 YRS	250,000
12022.53(d)	Personally and intentionally discharges a firearm for certain offenses and causes GBI or death	LIFE	No Bail*



## Enhancements

Penal	Offense	Term	Bail
12022.55	Causing death or GBI by discharging firearm from motor vehicle	5 6 10 YRS	250,000
12022.6(a)((1), (2), (3), (4)	Excessive taking	1 YR 2 YRS 3 YRS 4 YRS	Same as allegation
12022.7(a)	Causing GBI during commission of felony	3 YRS	50,000
12022.7(b)	GBI resulting in coma or paralysis	5 YRS	250,000
12022.7(c)	GBI to person 70 years or older	5 YRS	100,000
12022.7(d)	GBI to person under 5 years of age	4 5 6 YRS	100,000
12022.7(e)	GBI during commission of felony relating to domestic violence	3 4 5 YRS	100,000
12022.75	Administering controlled substance to commit felony	3 YRS	50,000
12022.8	GBI during commission of felony sex offense	5 YRS	100,000
12022.85	Committing sex offense by defendant with AIDS virus	3 YRS	50,000
12022.9(a)	Inflicting injury causing termination of pregnancy	5 YRS	100,000
12022.95	Abuse of child under 273 resulting in death	4 YRS	100,000

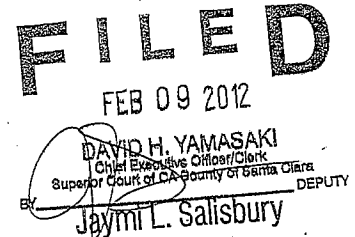
Health and Safety	Offense	Term	Bail
11353.1 (a)(1),(2), or (3)	Sale of narcotics at certain locations; sale to minor	1 YR 2 YRS 1 2 3 YRS	25,000
11353.4	H&S 11353 with prior	1 2 3 YRS	50,000
11353.6	Sale of drugs at certain locations	3 4 5 YRS	25,000
11356.5(a)(1)	Sale of PCP with a value exceeding \$500,000	1 YR	500,000
11356.5(a)(2)	Sale of PCP with a value exceeding \$2,000,000	2 YRS	2,000,000
11356.5(a)(3)	Sale of PCP with a value exceeding \$5,000,000	3 YRS	5,000,000
11370.2(a) & (b)	Prior conviction in sales transaction	3 YRS	25,000
11370.4 (a) (1)-(6)	Violations with heroin; cocaine, cocaine base, PCP, methamphetamine with weights or volumes		
(a) (1)	1 kilogram 30 liters	3 YRS	25,000
(a)(2)	4 kilograms 100 liters	5 YRS	100,000
(a)(3)	10 kilograms 200 liters	10 YRS	250,000
(a) (4)	20 kilograms 400 liters	15 YRS	500,000
(a) (5)	40 kilograms	20 YRS	1,000,000
(a) (6)	80 kilograms	25 YRS	2,000,000

Health and Safety	Offense	Term	Bail
11379.7(a)	Manufacture of methamphetamine or PCP when children present	2 YRS	25,000
11379.7(b)	Manufacture of methamphetamine or PCP when children present and suffer GBI	5 YRS	100,000
11379.8	Manufacture of controlled substances by weights and volumes		
(a)(1)	1 pound 3 gallons	3 YRS	25,000
(a)(2)	3 pounds 10 gallons	5 YRS	100,000
(a)(3)	10 pounds 25 gallons	10 YRS	250,000
(a)(4)	44 pounds 105 gallons	15 YRS	1,000,000
11380.1 (a)(1), (2), or (3)	Using minor for sale of PCP or LSD at certain locations; sale to minor	1 YR 2 YRS 1 2 3 YRS	25,000



1 T. ANDREW HUNTINGTON, Cal. Bar No. 187687  
2 General Counsel, Bay Area News Group  
3 750 Ridder Park Drive  
4 San Jose, California 95190  
5 Tel (408) 920-5790  
6 Fax (408) 920-1848  
7 ahuntington@bayareanewsgroup.com

8 Attorneys for SAN JOSE MERCURY NEWS, LLC



9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF SANTA CLARA  
12

13 PEOPLE OF THE STATE OF  
14 CALIFORNIA,

15 Plaintiff,

16 v.

17 CRAIG RICHARD CHANDLER,  
18 Defendant.  
19

Case No. C1223754

**PROOF OF SERVICE**

20 I am a resident of the State of California, over the age of eighteen years, and not a  
21 party to the within action. My business address is San Jose Mercury News, 750 Ridder  
22 Park Drive, San Jose, California 95190. On February 9, 2012, I served the within  
23 document(s):

24 **SUPPLEMENTAL MEMORANDUM OF POINTS AND AUTHORITIES**  
25 **IN SUPPORT OF MOTION TO UNSEAL FILING REPORT;**

26 ☐ by facsimile transmission at or about on that date. This document  
27 was transmitted by using a facsimile machine that complies with California  
28 Rules of Court Rule 2003(3), telephone number 510.873.8656. The  
transmission was reported as complete and without error. A copy of the  
transmission report, properly issued by the transmitting machine, is

622

PROOF OF SERVICE

1 attached. The names and facsimile numbers of the person(s) served are as  
2 set forth below.

3 ☒ by placing a true copy of the document(s) listed above for collection  
4 and mailing following the company's ordinary business practice in a sealed  
5 envelope with postage thereon fully prepaid for deposit in the United States  
6 mail at San Jose, California addressed as set forth below.

7 ☐ by depositing a true copy of the same enclosed in a sealed envelope,  
8 with delivery fees provided for, in a Federal Express pick up box or office  
9 designated for overnight delivery, and addressed as set forth below.

10 ☐ by personally delivering a copy of the document(s) listed above to  
11 the person(s) at the address(es) set forth below.

12  
13 Santa Clara County, Office of the District Attorney Steven Clark  
14 190 West Hedding St. The Law Offices of Steven Clark  
15 San Jose, CA 95110 10 Almaden, Suite 1250  
Attn: Alison Filo San Jose, CA 95113

16 Christopher E. Schumb  
17 The Law Offices of Christopher E.  
Schumb  
18 10 Almaden, Suite 1250  
19 San Jose, CA 95113

20 I served such envelope or package by placing a true copy of the document(s) listed  
21 above for collection and mailing following the company's ordinary business practice in a  
22 sealed envelope with postage thereon fully prepaid for deposit in the United States mail at  
23 San Jose, California addressed as set forth below.

24 I declare under penalty of perjury under the laws of the State of California that the  
25 above is true and correct. Executed on February 9, 2012, at San Jose, California.

26  
27   
28 Dawn Kennedy

DJP

✓

1 STEVEN CLARK, Bar No. 110351  
 2 THE LAW OFFICES OF STEVEN CLARK  
 3 10 Almaden, Suite 1250  
 4 San Jose, California 95113  
 5 (408) 271-3245

6 CHRISTOPHER E. SCHUMB, Bar No. 116828  
 7 THE LAW OFFICES OF CHRISTOPHER E. SCHUMB  
 8 10 Almaden, Suite 1250  
 9 San Jose, California 95113  
 10 (408) 271-3245

11 Attorneys for Defendant  
 12 CRAIG RICHARD CHANDLER

FILED

2012 FEB 10 P 12:46

David H. Yamashita, Clerk of the Superior Court  
 County of Santa Clara, California  
 By: *[Signature]*  
 Deputy Clerk  
 P. ABOGADO

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 FOR THE COUNTY OF SANTA CLARA

15 PEOPLE OF THE STATE OF  
 16 CALIFORNIA

17 Plaintiff,

18 v.

19 CRAIG RICHARD CHANDLER,  
 20 Defendant.

Case No. C1223754

DEFENDANTS' REPLY BRIEF TO  
 MOTION TO UNSEAL FILING  
 REPORT

Date: February 15, 2012

Time: 11:00 a.m.

Department 30

The Honorable Phillip  
 Pennypacker

21 I. STATEMENT OF FACTS

22 Although defendant has argued and represented to the Court  
 23 that Judge Danner did not review the Filing Report at the  
 24 Arraignment Hearing on January 13, 2012, defense wants this point  
 25 to be undisputed, and thus files the Declaration of Christopher  
 26 Schumb with this Reply Brief. This fact is undisputed in that at  
 27 the hearing on January 31, 2012, Deputy District Attorney Alison  
 28 Filo stated on the record that she agreed with defense counsels'

CHRISTOPHER SCHUMB  
 ATTORNEY AT LAW  
 10 Almaden Blvd., Ste. 1250  
 San Jose, CA 95113  
 Telephone (408) 271-3245

Reply Brief

-1-

624

1 representation that Judge Danner did not review the Filing Report  
2 on January 13, 2012.

3 II. LEGAL DISCUSSION

4 A. THE FILING REPORT IS NOT A COURT RECORD

5 Defendant's main contention is that the Filing Report is not  
6 a part of the Court File, because it is not file endorsed, and  
7 thus no clerk ever placed it in the file. And even if the it was  
8 properly placed in the Court File, it should not have been  
9 because the District Attorney's stated intent for submitting the  
10 document is to counter a motion for bail, which has never been  
11 sought by Defendant and the document itself fails to comply with  
12 the requirements of a properly filed declaration.

13 In its brief, the San Jose Mercury News (SJMN) spends much  
14 time in a rather facile fashion reviewing some of the case law  
15 that has addresses the conflict between a defendant's Sixth  
16 Amendment Right to a fair trial and the guarantees afforded by  
17 the First Amendment for the public's right to know. But this is  
18 quite frankly a waste of time, because in California, the  
19 precedent that controls is expressly made in the statute (Rules  
20 of Court 2.550) to be NBC Subsidiary Inc. v. Superior Court  
21 (1999) 20 Cal.4th 1178. Rarely do statutes actually refer to the  
22 case that inspired it, but in the case at bar we have it.

23 Defendant contends that the Filing Report is not a sealed  
24 record, and thus is not subject to the strict scrutiny test  
25 delineated in NBC. The Filing Report is an irrelevant police  
26 report that is properly classified as a putative part of  
27 "discovery proceedings, motions, and materials that are not used  
28



at trial or submitted to the court as a basis for adjudication" which are not within Rules of Court 2.550, Advisory Committee Comment. In NBC, the court expressly excepts such documents from the class of "records" that accessible to the public. Id. at 1208-1209, fn. 25. (citations omitted).

Alternatively, as Defendant argued earlier, the Filing Report does give identifying information that some could easily use to figure out the identity of the alleged victims, and this is clear an over-riding interest identified by the Courts. Press Enterprise v. Superior Court (1986) 478 U.S. 1, 9, fn. 2. In addition, since disclosure of the Filing Report is pre-trial publicity that could taint a jury pool, the court should lean more favorably towards the defendant than if in the case of post-empanelment publicity Waller v. Georgia (1984) 467 U.S. 39, 47, fn.6.

### III. CONCLUSION

The "Filing Report" was never used to adjudicate the case, is of dubious origin and since it bears no file stamp and does not comply with the requirements of a properly filed pleading; thus Defendant asserts is not subject the requirements of NBC. The District Attorney can give it to the press if they think it fit, but the Court should not be placed in the position of having to taint an already muddled jury pool.

Respectfully submitted,

Dated: February 10, 2012

CHRISTOPHER E. SCHUMB  
Attorney for Defendant

PROOF OF SERVICE

I, CHRISTOPHER SCHUMB, hereby declare and state:

I am over the age of eighteen years, employed in the County of Santa Clara, California, and not a party to the within action. My business address is 10 Almaden Boulevard, Suite 1250, San Jose, CA 95113.

On February 10, 2012, I served Defendant's Reply Brief and the Declaration of Christopher Schumb, on:

Alison Filo Esq.  
Santa Clara County District Attorney  
70 W. Hedding Street, West Wing  
San Jose, California 95110  
(408) 294-6746

T. Andrew Huntington Esq.  
General Counsel, Bay Area News Group  
750 Ridder Park Drive  
San Jose, California 95190  
(408) 920-1848

☒ (BY MAIL) I placed each such sealed envelope, with postage thereon fully prepaid for first-class, return receipt requested certified mail, for collection and mailing at San Jose, California, following ordinary business practices. I am readily familiar with the practice of CHRISTOPHER E. SCHUMB for processing of correspondence, said practice being that in the ordinary course of business, correspondence is deposited with the United States Postal Service the same day as it is placed for processing.

☐ (BY PERSONAL SERVICE) I caused each documents to be delivered by hand to the addressee(s) noted above.

☒ (BY FACSIMILE) I caused the said document to be transmitted by Facsimile machine to the number indicated after the address(es) noted above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.  
Executed at San Jose, California.

Date: February 10, 2012

CHRISTOPHER SCHUMB  
ATTORNEY AT LAW  
10 Almaden Blvd., Ste. 1250  
San Jose, CA 95113  
Telephone (408) 271-3245

Reply Brief

- 4 -

627

STEVEN CLARK, Bar No. 110351  
THE LAW OFFICES OF STEVEN CLARK  
10 Almaden, Suite 1250  
San Jose, California 95113  
(408) 271-3245

CHRISTOPHER E. SCHUMB, Bar No. 116828  
THE LAW OFFICES OF CHRISTOPHER E. SCHUMB  
10 Almaden, Suite 1250  
San Jose, California 95113  
(408) 271-3245

Attorneys for Defendant  
CRAIG RICHARD CHANDLER

FILED

2012 FEB 10 P 12:47

David H. Vancasick, Clerk of the Superior Court  
County of Santa Clara, California  
By *[Signature]*  
P. ABOCADO

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

PEOPLE OF THE STATE OF  
CALIFORNIA

Plaintiff,

v.

CRAIG RICHARD CHANDLER,  
Defendant.

Case No. C1223754

DECLARATION OF CHRISTOPHER  
SCHUMB SUPPORTING REPLY BRIEF

Date: February 15, 2012  
Time: 9:00 a.m.  
Department 30  
The Honorable Phillip  
Pennypacker

I, CHRISTOPHER SCHUMB, declare:

1. I am an attorney licensed to practice law in the Courts  
in California and attorney of record for Defendant in the above-  
entitled action.

2. At the Arraignment in the above-entitled case held on  
January 13, 2012, counsel approached the bench to discuss the  
"Filing Report" with Judge Danner. Judge Danner did not appear

1 to be aware of the Filing Report until it was pointed-out to him  
2 and he did not review it to my knowledge during that hearing.

3 3. No bail motion was made by Defendant, and the bail  
4 status remained as it was previously set.

5 4. I am competent and willing to testify to the foregoing.

6 I declare under penalty of perjury under the laws of the  
7 State of California that the foregoing is true and correct.

8 Executed at San Jose, California.

9 Dated: February 10, 2012

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

CHRISTOPHER SCHUMB  
ATTORNEY AT LAW  
10 Almaden Blvd., Ste. 1250  
San Jose, CA 95113  
Telephone (408) 271-3245

Declaration of Schumb

- 2 -

629

CTS = ACT + ☐ PC4019 ☐ 1/2 ☐ 1/3 ☐ PC2933.1 = \_\_\_\_\_ TOTAL DAYS TOTAL TERM \_\_\_\_\_  
☐ Straight time ☐ In Camp ☐ WWP ☐ PC1209 Fees ☐ Waived ☐ Court Rec \_\_\_\_\_ All / Except ☐ EMP/PSP/ERP/DRP/Cq Parole/NP **630**  
☐ Sent Deemed Served ☐ Rpt to Parole w/in \_\_\_\_\_ Adv \_\_\_\_\_ Yrs Parole/Appeal Rights ☐ Consec ☐ Conc to \_\_\_\_\_  
☐ Bal CJ Susp ☐ All but \_\_\_\_\_ Hrs/Days/Mos ☐ On Cond Complete Residential Treatment Prgm ☐ Serve Consec MO/TU/WE/TH/FR/SA/SU \_\_\_\_\_  
☐ Pre-process \_\_\_\_\_ AM/PM ☐ Stay / Surrender / Transport to \_\_\_\_\_ @ \_\_\_\_\_ AM/PM or Sooner \_\_\_\_\_  
☒ REMAIND-BAIL \$ \_\_\_\_\_ ☐ REMAIN AS SET ☐ NO BAIL ☐ COMMITTED ☐ RELEASED ☐ OR ☐ SORP ☐ JAC PHONE ASSM'T ☐ P36  
☐ AS COND OF SORP ☐ BAIL INCREASED / REDUCED ☐ TO PRGM AS REC BY JAC DOC TO ARRANGE TRANSPORT UPON AVAIL BED

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA  
HALL OF JUSTICE

THE PEOPLE OF THE STATE OF CALIFORNIA,  
  
Plaintiff,  
  
vs.  
  
CRAIG RICHARD CHANDLER (10/25/1976), 1K  
1361 N. SAN PEDRO STREET, SAN JOSE, CA 95110  
  
Defendant(s).

3/1/12  
  
FIRST AMENDED  
FELONY COMPLAINT  
CASE SUMMARY  
  
DOCKET NO. C1223754  
  
DA NO: 120100927  
CEN  
12001535 CRC HELD 3/2/2012

**PROTECTIVE ORDER**

CASE SUMMARY

Count	Charge	Charge Range	Defendant	Allegation	Alleg. Effect
1	PC288(a)	3-6-8	Craig Richard Chandler	PC667.61(b)/(e)	15-life
2	PC288(a)	3-6-8	Craig Richard Chandler	PC667.61(b)/(e)	15-life
3	PC288(a)	3-6-8	Craig Richard Chandler	PC667.61(b)/(e)	15-life
4	PC288(a)	3-6-8	Craig Richard Chandler	PC667.61(b)/(e)	15-life
5	PC288(a)	3-6-8	Craig Richard Chandler	PC667.61(b)/(e)	15-life

**P.C. 1048  
PRIORITY**

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA  
HALL OF JUSTICE

FILED

MAR 02 2012

THE PEOPLE OF THE STATE OF CALIFORNIA,  
Plaintiff,

3/1/12

DAVID H. YAMASAKI  
Chief Executive Officer/Clerk  
Superior Court of CA County of Santa Clara  
BY David H. Yamasaki DEPUTY

FIRST AMENDED  
FELONY COMPLAINT

vs.

DOCKET NO. C1223754

CRAIG RICHARD CHANDLER (10/25/1976), 1K,  
1361 N. SAN PEDRO STREET, SAN JOSE, CA 95110

DA NO: 120100927  
CEN

Defendant(s).

12001535 CRC HELD 3/2/2012

PROTECTIVE ORDER

The undersigned is informed and believes that:

COUNT 1

On or about and between December 1, 2011 and January 6, 2012, in the County of Santa Clara, State of California, the crime of LEWD OR LASCIVIOUS ACT ON A CHILD UNDER FOURTEEN, in violation of PENAL CODE SECTION 288(a), a Felony, was committed by CRAIG RICHARD CHANDLER who did willfully and lewdly commit a lewd and lascivious act upon and with the body and certain parts and members thereof of Jane Doe 1, a child under the age of fourteen years, namely, 7, with the intent of arousing, appealing to and gratifying the lust, passions, and sexual desires of the defendant(s) and of the child.

A conviction of the offense charged in this count requires the defendant to register pursuant to Penal Code section 290.

(CJC-1KSX) It is further alleged that the defendant, CRAIG RICHARD CHANDLER, multiple victims, within the meaning of Penal Code sections 667.61(b) and 667.61(e).

P.C. 1048  
PRIORITY

COUNT 2

On or about and between October 1, 2011 and November 1, 2011, in the County of Santa Clara, State of California, the crime of LEWD OR LASCIVIOUS ACT ON A CHILD UNDER FOURTEEN, in 632

violation of PENAL CODE SECTION 288(a), a Felony, was committed by CRAIG RICHARD CHANDLER who did willfully and lewdly commit a lewd and lascivious act upon and with the body and certain parts and members thereof of Jane Doe 2, a child under the age of fourteen years, namely, 7, with the intent of arousing, appealing to and gratifying the lust, passions, and sexual desires of the defendant(s) and of the child.

A conviction of the offense charged in this count requires the defendant to register pursuant to Penal Code section 290.

(CJIC-1KSX) It is further alleged that the defendant, CRAIG RICHARD CHANDLER, multiple victims, within the meaning of Penal Code sections 667.61(b) and 667.61(e).

#### COUNT 3

On or about and between September 1, 2011 and January 10, 2012, in the County of Santa Clara, State of California, the crime of LEWD OR LASCIVIOUS ACT ON A CHILD UNDER FOURTEEN, in violation of PENAL CODE SECTION 288(a), a Felony, was committed by CRAIG RICHARD CHANDLER who did willfully and lewdly commit a lewd and lascivious act upon and with the body and certain parts and members thereof of Jane Doe 3, a child under the age of fourteen years, namely, 8, with the intent of arousing, appealing to and gratifying the lust, passions, and sexual desires of the defendant(s) and of the child.

A conviction of the offense charged in this count requires the defendant to register pursuant to Penal Code section 290.

(CJIC-1KSX) It is further alleged that the defendant, CRAIG RICHARD CHANDLER, multiple victims, within the meaning of Penal Code sections 667.61(b) and 667.61(e).

#### COUNT 4

On or about and between September 1, 2010 and June 1, 2011, in the County of Santa Clara, State of California, the crime of LEWD OR LASCIVIOUS ACT ON A CHILD UNDER FOURTEEN, in violation of PENAL CODE SECTION 288(a), a Felony, was committed by CRAIG RICHARD 633



CHANDLER who did willfully and lewdly commit a lewd and lascivious act upon and with the body and certain parts and members thereof of Jane Doe 4, a child under the age of fourteen years, namely, 9, with the intent of arousing, appealing to and gratifying the lust, passions, and sexual desires of the defendant(s) and of the child.

A conviction of the offense charged in this count requires the defendant to register pursuant to Penal Code section 290.

(CJIC-1KSX) It is further alleged that the defendant, CRAIG RICHARD CHANDLER, multiple victims, within the meaning of Penal Code sections 667.61(b) and 667.61(e).

#### COUNT 5

On or about and between September 1, 2010 and June 1, 2011, in the County of Santa Clara, State of California, the crime of LEWD OR LASCIVIOUS ACT ON A CHILD UNDER FOURTEEN, in violation of PENAL CODE SECTION 288(a), a Felony, was committed by CRAIG RICHARD CHANDLER who did willfully and lewdly commit a lewd and lascivious act upon and with the body and certain parts and members thereof of Jane Doe 5, a child under the age of fourteen years, namely, 8, with the intent of arousing, appealing to and gratifying the lust, passions, and sexual desires of the defendant(s) and of the child.

A conviction of the offense charged in this count requires the defendant to register pursuant to Penal Code section 290.

(CJIC-1KSX) It is further alleged that the defendant, CRAIG RICHARD CHANDLER, multiple victims, within the meaning of Penal Code sections 667.61(b) and 667.61(e).

#### REQUEST FOR TRIAL PRIORITY PURSUANT TO PENAL CODE § 1048

The case charged above falls within the provisions of Penal Code section 1048, and the People therefore respectfully request that the case be given the trial priority provided by that section.

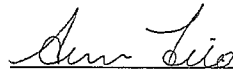
Any defendant, including a juvenile, who is convicted of and pleads guilty and no contest to any felony offense, including any attempt to commit the offense, charged in this complaint or information is required to provide buccal swab samples, right thumbprints and a full palm print impression of each hand, and any blood specimens or other biological samples required pursuant to the DNA and Forensic Identification Database and Data Bank Act of 1998 and Penal Code section 296, et seq.

Further, attached and incorporated by reference are official reports and documents of a law enforcement agency which the complainant believes establish probable cause for the pretrial restraint of defendant CRAIG RICHARD CHANDLER, for the above-listed crimes.

Complainant therefore requests that the defendant(s) be dealt with according to law.

I certify under penalty of perjury that the above is true and correct.

Executed on March 1, 2012, in SANTA CLARA County, California.



Pierce 3415

(Pierce 3415)

SJPD (408) 277-4102 120090244 S

FILO/ D467/ FELONY/ EG

CTS = ACT + ☐ PC4019 ☐ % ☐ % ☐ PC2933.1 = TOTAL DAYS TOTAL TERM  
☐ Straight time ☐ In Camp ☐ WWP ☐ PC1209 Fees ☐ Waived ☐ Court Rec. All / Except EMP/PSP/ERP/DRP/Co Parole/NP  
☐ Sent Deemed Served ☐ Rpt to Parole w/in ☐ Adv Yrs Parole/Appeal Rights ☐ Consec ☐ Conc to 636  
☐ Bal CJ Susp ☐ All but Hrs/Days/Mos ☐ On Cond Complete Residential Treatment Prgm ☐ Serve Consec MO/TU/WE/TH/FR/SA/SU  
☐ Pre-process AM/PM ☐ Stay / Surrender / Transport to @ AM/PM or Sooner  
☒ REMANDED-BAIL \$ ☐ REMAIN AS SET ☐ NO BAIL ☐ COMMITTED ☐ RELEASED ☐ OR ☐ SORP ☐ JAC PHONE ASSM'T ☐ P36  
☐ AS COND OF SORP ☐ BAIL INCREASED / REDUCED ☐ TO PRGM AS REC BY JAC DOC TO ARRANGE TRANSPORT UPON AVAIL BED  
 DISTRIBUTION: ORIGINAL FILE GREEN DOC BLUE CJC/DRP PURPLE PROBATION BROWN DEFENDANT

☐ AS COND OF SORP ☐ BAIL INCREASED / REDUCED ☐ TO PRGM AS REC BY JAC DOC TO ARRANGE TRANSPORT UPON AVAIL BED

☐ AS CONC OF CONC ☐ DATE INCREASED/REDUCED: ☐ TO FROM AS REC BY JAC DOC TO ARRANGE TRANSPORT UPON AVAIL BED

DISTRIBUTION: ORIGINAL FILE GREEN DOG BLUE CMC/DOB PURPLE PROBATION BROWN DEFENDANT

COURT OF CALIFORNIA, COUNTY OF SANTA CLARA  
Hall of Justice Courthouse

PRELIMINARY EXAMINATION MINUTES, COMMITMENT, CERTIFICATION, ARRAIGNMENT

People of the State of California

Vs.

Craig Richard Chandler

Defendant

Interpreter

Deputy District Attorney Alison Filo

Defense Attorney C. Schumb & S. Clark

Case No. C1223754

CEN: 12001535

Custody Status: I-Set-NBA

Date: 21 May 2012

Judge: M. McKay McCoy

Reporter: D. Nebolon

Clerk: M. Avalos

AD/PD/Legal Aid

☒ Motion to exclude/admonish witness(es) granted.

Interpreter for Witness T. Zambetti - Vietnamese

MDA/COM Amended to

Preliminary Examination Held - Witnesses Sworn and Testified:

Jane Doe 2

Kim Bich Thu (To)

Jane Doe 1

Lusiana Villarreal

People's Exhibits: marked/admitted

1. Photo: Classroom Interior

2.

3.

4.

5.

Defense Exhibits: marked/admitted

A. Poster of People's Exh. #1

B.

C.

D.

E.

☒ Waives right to continuous Preliminary Examination. Continued to 5/22/12 @ 900 D53

☐ HELD TO ANSWER: It appearing to me from the testimony this day given before me on the preliminary examination of the above-named defendant, that the offense of a violation of section(s):

has been committed and that there is sufficient cause to believe the above-named defendant guilty thereof. I order that he/she be held to answer to same. ☐ Arming allegation(s) found true / not true. ☐ Enhancements found true / not true.

☐ Misdemeanor violation(s) certified to general jurisdiction

☐ HOLDING DENIED as to

☐ DEFENDANT ORDERED TO APPEAR FOR ARRAIGNMENT AM/PM Dept

☐ Counsel stipulate Complaint be deemed Information ☐ Counsel enters special appearance ☐ Counsel Do Not stip to Complaint as Information

☐ Arr/Adv ☐ Arr Wvd ☐ Defendant pleads not guilty. ☐ TW 60 ☐ TNW ☐ Exhibits released

Last day to file motions Last day to hear motions

☐ DEFENDANT ORDERED TO APPEAR FOR MTC AM/PM Dept

☐ IDC ☐ Referred for SORP Hearing set for Wednesday AM/PM Dept

☒ REMANDED to custody of DOC until next appearance.

Bail \$ RAS

☐ RELEASED ☐ O/R ☐ SORP

☐ BAIL INCREASED/REDUCED

I certify that the foregoing is a true and correct record of the proceedings had before me this date in said case.

DATE 21 May 2012

I certify the foregoing is a true copy of the Judgment/Order rendered on the above date by the above-named Judge.

JUDGE OF THE SUPERIOR COURT

Clerk of the above-named Court

TO THE DOC: The foregoing certified copy of Judgment/Order in the above-entitled action is your authority for the execution thereof.

7685 REV. 7/07

Distribution: BLACK-FILE, GREEN-JAIL, BLUE-CJIC, PURPLE-DA, BROWN-DEFENDANT

FILE



8/10015893 (5/2/07), Moore Wallace. All rights reserved. - 0667

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA**  
Hall of Justice Courthouse

**PRELIMINARY EXAMINATION MINUTES, COMMITMENT, CERTIFICATION, ARRAIGNMENT**

The People of the State of California Case No. C1223754  
 Vs. CEN: 12001535  
Craig Richard Chandler Custody Status: T-Set-NBA  
 Defendant Date: 22 May 2012  
 Interpreter Judge: M. McKay McCoy  
 Deputy District Attorney Alison Filo Reporter: D. Nebolon  
 Defense Attorney C. Schumb & Steve Clark Clerk: M. Avalos  
 AD/PD/Legal Aid

☐ Motion to exclude/admonish witness(es) granted. Interpreter for Witness \_\_\_\_\_  
 MDA/COM Amended to \_\_\_\_\_

## Preliminary Examination Held - Witnesses Sworn and Testified:

Lusianakillarreal (cont'd) Lyn Bijayendran (was  
Jane Doe 3 Jane Doe 5 called but did not  
Jane Doe 4 Lea Peery testify)

## People's Exhibits: marked/admitted

1. ☐ ☒ Withdrawn by Y
2. ☐ ☒ Drawing of "the Thing" by J. Doe 5
3. ☐ ☒
4. ☐ ☒
5. ☐ ☒

## Defense Exhibits: marked/admitted

- A. ☐ ☒ Poster of Classroom Interior
- B. ☐ ☒
- C. ☐ ☒
- D. ☐ ☒
- E. ☐ ☒

☒ Waives right to continuous Preliminary Examination. Continued to 5/23/12 @ 900 D53  
☐ HELD TO ANSWER: It appearing to me from the testimony this day given before me on the preliminary examination of the above-named defendant, that the offense of a violation of section(s): \_\_\_\_\_

has been committed and that there is sufficient cause to believe the above-named defendant guilty thereof. I order that he/she be held to answer to same. ☐ Arming allegation(s) found true / not true. ☐ Enhancements found true / not true.

☐ Misdemeanor violation(s) certified to general jurisdiction \_\_\_\_\_

☐ HOLDING DENIED as to \_\_\_\_\_

☐ DEFENDANT ORDERED TO APPEAR FOR ARRAIGNMENT \_\_\_\_\_ AM/PM Dept \_\_\_\_\_

☐ Counsel stipulate Complaint be deemed Information ☐ Counsel enters special appearance ☐ Counsel Do not stip to Complaint as Information

☐ Arr/Adv ☐ Arr Wvd ☐ Defendant pleads not guilty. ☐ TW 60 ☐ TNW ☐ Exhibits released

Last day to file motions \_\_\_\_\_ Last day to hear motions \_\_\_\_\_

☐ DEFENDANT ORDERED TO APPEAR FOR MTC \_\_\_\_\_ AM/PM Dept \_\_\_\_\_

☐ IDC ☐ Referred for SORP Hearing set for Wednesday \_\_\_\_\_ AM/PM Dept \_\_\_\_\_

☒ REMANDED to custody of DOC until next appearance. Bail \$ RAS  
☐ RELEASED ☐ O/R ☐ SORP ☐ BAIL INCREASED/REDUCED

I certify that the foregoing is a true and correct record of the proceedings had before me this date in said case.

DATE 22 May 2012

I certify the foregoing is a true copy of the Judgment/Order rendered on the above date by the above-named Judge.

M. McKay McCoy  
 JUDGE OF THE SUPERIOR COURT

M. Avalos 640  
 Clerk of the above-named Court

TO THE DOC: The foregoing certified copy of Judgment/Order in the above-entitled action is your authority for the execution thereof.

7685 REV. 7/07 Distribution: BLACK-FILE, GREEN-JAIL, BLUE-CJIC, PURPLE-DA, BROWN-DEFENDANT

FILE

## SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA

Hall of Justice Courthouse

## PRELIMINARY EXAMINATION MINUTES, COMMITMENT, CERTIFICATION, ARRAIGNMENT

The People of the State of California

Case No. U1223754

Vs.

CEN: 12001535Custody Status: T-Set-NBADate: 23 May 2012Judge: M. McKay McCoyReporter: D. NebalonClerk: M. AvalosCraig Richard Chandler

Defendant

Interpreter

Deputy District Attorney Alison FiloDefense Attorney C. Schumb & S. Clark

AD/PD/Legal Aid

☐ Motion to exclude/admonish witness(es) granted.

Interpreter for Witness

MDA/COM Amended to

## Preliminary Examination Held - Witnesses Sworn and Testified:

Jane Doe 5 (Cont'd)STPD Ofcr. Sean PierceSTPD Ofcr. Russell ScubonKristen Cardoza

People's Exhibits: marked/admitted

Defense Exhibits: marked/admitted

1. ☐
2. ☐
3. ☐
4. DNA Report ☒
5. ☐

- A. ☐
- B. ☐
- C. Photo: Classroom Interior ☒
- D. CV of Criminalist Cardoza ☒
- E. ☐

☐ Waives right to continuous Preliminary Examination. Continued to☒ HELD TO ANSWER: It appearing to me from the testimony this day given before me on the preliminary examination of the above-named defendant, that the offense of a violation of section(s): F(001) PC288(A); F(002) PC288(A); F(003) PC288(A); F(004) PC288(A); F(005) PC288(A)has been committed and that there is sufficient cause to believe the above-named defendant guilty thereof. I order that he/she be held to answer to same. ☒ Arming allegation(s) found true / ~~not true~~. ☐ Enhancements found true / not true.☐ Misdemeanor violation(s) certified to general jurisdiction☐ HOLDING DENIED as to☒ DEFENDANT ORDERED TO APPEAR FOR ARRAIGNMENT6/14/12130 AM Dept. 24☐ Counsel stipulate Complaint be deemed Information ☐ Counsel enters special appearance ☐ Counsel Do Not stip to Complaint as Information☐ Arr/Adv ☐ Arr Wvd ☐ Defendant pleads not guilty. ☐ TW 60 ☐ TNW☒ Exhibits released

Last day to file motions Last day to hear motions

☐ DEFENDANT ORDERED TO APPEAR FOR MTC AM/PM Dept.☐ IDC ☐ Referred for SORP Hearing set for Wednesday AM/PM Dept.☒ REMANDED to custody of DOC until next appearance.Bail \$ RAS☐ BAIL INCREASED/REDUCED☐ RELEASED ☐ O/R ☐ SORP

I certify that the foregoing is a true and correct record of the proceedings had before me this date in said case.

DATE 23 May 2012

I certify the foregoing is a true copy of the Judgment/Order rendered on the above date by the above-named Judge.

JUDGE OF THE SUPERIOR COURT

Clerk of the above-named Court.

641

TO THE DOC: The foregoing certified copy of Judgment/Order in the above-entitled action is your authority for the execution thereof.



SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

CRAIG RICHARD CHANDLER (10/25/1976), 1K  
1361 NORTH SAN PEDRO STREET, SAN JOSE, CA 95110

Defendant.

May 30, 2012

DA NO 120100927

CEN

12001535 CRC HELD 06/04/2012

INFORMATION NO. C1223754

**FILED**

MAY 31 2012

DAVID H. YAMASAKI  
Clerk/Executive Officer/Clerk  
Superior Court of CA County of Santa Clara  
BY \_\_\_\_\_ DEPUTY

INFORMATION  
SUMMARY

Count	Charge	Charge Range	Defendant	Allegation	Alleg. Effect
1	PC288(a)	3-6-8	Craig Richard Chandler	PC667.61(b)/(e)	15-life
				PC1203.066(a)(7probation )	limitation
2	PC288(a)	3-6-8	Craig Richard Chandler	PC667.61(b)/(e)	15-life
				PC1203.066(a)(7probation )	limitation
3	PC288(a)	3-6-8	Craig Richard Chandler	PC667.61(b)/(e)	15-life
				PC1203.066(a)(7probation )	limitation
4	PC288(a)	3-6-8	Craig Richard Chandler	PC667.61(b)/(e)	15-life
				PC1203.066(a)(7probation )	limitation
5	PC288(a)	3-6-8	Craig Richard Chandler	PC667.61(b)/(e)	15-life
				PC1203.066(a)(7probation )	limitation

The District Attorney of the County of Santa Clara, by this Information alleges that:

**COUNT 1**

On or about and between December 1, 2011 and January 6, 2012, in the County of Santa Clara, State of California, the crime of LEWD OR LASCIVIOUS ACT ON A CHILD UNDER FOURTEEN, in violation of PENAL CODE SECTION 288(a), a Felony, was committed by CRAIG RICHARD CHANDLER who did willfully and lewdly commit a lewd and lascivious act upon and with the body and certain parts and members thereof of Jane Doe 1, a child under the age of fourteen years, namely, 7, with the intent of arousing, appealing to and gratifying the lust, passions, and sexual desires of the defendant(s) and of the child.

A conviction of the offense charged in this count requires the defendant to register pursuant to Penal Code section 290.

(CJIC-1KSX) It is further alleged that the defendant, CRAIG RICHARD CHANDLER, multiple victims, within the meaning of Penal Code sections 667.61(b) and 667.61(e).

(CJIC-NOPR) It is further alleged that the defendant, CRAIG RICHARD CHANDLER, committed violations of 288(a) against more than one victim, within the meaning of Penal Code section 1203.066(a)(7).

**COUNT 2**

On or about and between October 1, 2011 and November 1, 2011, in the County of Santa Clara, State of California, the crime of LEWD OR LASCIVIOUS ACT ON A CHILD UNDER FOURTEEN, in violation of PENAL CODE SECTION 288(a), a Felony, was committed by CRAIG RICHARD CHANDLER who did willfully and lewdly commit a lewd and lascivious act upon and with the body and certain parts and members thereof of Jane Doe 2, a child under the age of fourteen years, namely, 7, with the intent of arousing, appealing to and gratifying the lust, passions, and sexual desires of the defendant(s) and of the child.

A conviction of the offense charged in this count requires the defendant to register pursuant to Penal Code section 290.

(CJIC-1KSX) It is further alleged that the defendant, CRAIG RICHARD CHANDLER, multiple victims, within the meaning of Penal Code sections 667.61(b) and 667.61(e).

(CJIC-NOPR) It is further alleged that the defendant, CRAIG RICHARD CHANDLER, committed violations of 288(a) against more than one victim, within the meaning of Penal Code section 1203.066(a)(7).

**COUNT 3**

On or about and between September 1, 2011 and January 10, 2012, in the County of Santa Clara, State of California, the crime of LEWD OR LASCIVIOUS ACT ON A CHILD UNDER FOURTEEN, in violation of PENAL CODE SECTION 288(a), a Felony, was committed by CRAIG RICHARD CHANDLER who did willfully and lewdly commit a lewd and lascivious act upon and with the body and certain parts and members thereof of Jane Doe 3, a child under the age of fourteen years, namely, 8, with the intent of arousing, appealing to and gratifying the lust, passions, and sexual desires of the defendant(s) and of the child.

A conviction of the offense charged in this count requires the defendant to register pursuant to Penal Code section 290.

(CJIC-1KSX) It is further alleged that the defendant, CRAIG RICHARD CHANDLER, multiple victims, within the meaning of Penal Code sections 667.61(b) and 667.61(e).

(CJIC-NOPR) It is further alleged that the defendant, CRAIG RICHARD CHANDLER, committed violations of 288(a) against more than one victim, within the meaning of Penal Code section 1203.066(a)(7).

**COUNT 4**

On or about and between September 1, 2010 and June 1, 2011, in the County of Santa Clara, State of California, the crime of LEWD OR LASCIVIOUS ACT ON A CHILD UNDER FOURTEEN, in violation of PENAL CODE SECTION 288(a), a Felony, was committed by CRAIG RICHARD CHANDLER who did willfully and lewdly commit a lewd and lascivious act upon and with the body and certain parts and members thereof of Jane Doe 4, a child under the age of fourteen years, namely, 9, with the intent of arousing, appealing to and gratifying the lust, passions, and sexual desires of the defendant(s) and of the child.

A conviction of the offense charged in this count requires the defendant to register pursuant to Penal Code section 290.

(CJIC-1KSX) It is further alleged that the defendant, CRAIG RICHARD CHANDLER, multiple victims, within the meaning of Penal Code sections 667.61(b) and 667.61(e).

(CJIC-NOPR) It is further alleged that the defendant, CRAIG RICHARD CHANDLER, committed violations of 288(a) against more than one victim, within the meaning of Penal Code section 1203.066(a)(7).

**COUNT 5**

On or about and between September 1, 2010 and June 1, 2011, in the County of Santa Clara, State of California, the crime of LEWD OR LASCIVIOUS ACT ON A CHILD UNDER FOURTEEN, in violation of PENAL CODE SECTION 288(a), a Felony, was committed by CRAIG RICHARD CHANDLER who did willfully and lewdly commit a lewd and lascivious act upon and with the body and certain parts and members thereof of Jane Doe 5, a child under the age of fourteen years, namely, 8, with the intent of arousing, appealing to and gratifying the lust, passions, and sexual desires of the defendant(s) and of the child.

A conviction of the offense charged in this count requires the defendant to register pursuant to Penal Code section 290.

(CJIC-1KSX) It is further alleged that the defendant, CRAIG RICHARD CHANDLER, multiple victims, within the meaning of Penal Code sections 667.61(b) and 667.61(e).

(CJIC-NOPR) It is further alleged that the defendant, CRAIG RICHARD CHANDLER, committed violations of 288(a) against more than one victim, within the meaning of Penal Code section 1203.066(a)(7).

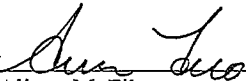
**REQUEST FOR TRIAL PRIORITY PURSUANT TO PENAL CODE § 1048**

The case charged above falls within the provisions of Penal Code section 1048, and the People therefore respectfully request that the case be given the trial priority provided by that section.

Any defendant, including a juvenile, who is convicted of and pleads guilty and no contest to any felony offense, including any attempt to commit the offense, charged in this complaint or information is required to provide buccal swab samples, right thumbprints and a full palm print impression of each hand, and any blood specimens or other biological samples required pursuant to the DNA and Forensic Identification Database and Data Bank Act of 1998 and Penal Code section 296, et seq.

Pursuant to Penal Code Section 1054 through 1054.7, inclusive, the People request that, within 15 days, the defendant and/or his/her attorney disclose: (A) The names and addresses of persons, other than the defendant, he/she intends to call as witnesses at trial, together with any relevant written or recorded statements of those persons, or reports of the statements of those persons, including any reports or statements of experts made in connection with the case, and including the results of any physical or mental examinations, scientific tests, experiments, or comparisons which the defendant intends to offer as evidence at the trial. (B) Any real evidence which the defendant intends to offer in evidence at the trial. This request is a continuing request, to cover not only all such material currently in existence, but all material which comes into existence to the conclusion of this case.

Jeffrey F. Rosen  
District Attorney

By   
Alison M. Filo  
Deputy District Attorney

L11 SUPERIOR COURT  
 190 W. HEDDING ST  
 SAN JOSE, CA 95110  
 PEOPLE VS. CRAIG RICHARD CHANDLER  
 L.K.A. 1361 N SAN PEDRO ST  
 SAN JOSE, CA 95110  
 JUDGE HON. RISE J. PICHON  
 REPORTER S. UPTON  
 DEF. ATTY. SCHUMB, CHRISTOPH(G)  
 CHARGES F(001)PC288(A)  
 F(003)PC288(A)  
 F(005)PC288(A)

DATE 06/04/2012 1:30 DEPT. 24  
 10/25/1976 CAB3721090 CDY BK:Y  
 CLERK A. MAVRAKAKIS  
 HEARING INFORMATION  
 DV: AGENCY SJ-04313-  
 CHILD: STATUS I-SET -NBA  
 APO TW  
 VIOLATION DATE 09/01/2010

CASE NO. C1223754  
 TC: CEN 12001535  
 EBK966 M

6/13/12 130 D24  
 8/19/12 830 D24

## NEXT APPEARANCE

☒ Defendant Present ☐ Not Present ☐ Atty Present ☐ AR - Madden, Brian  
☐ Arr'd ☐ Adv ☐ Arr Wav ☐ Amend Comp/Info ☐ Arr ☐ Plea ☐ IDC ☐ PTC ☐ Prob / Sent ☐ Interpreter ☐ Sworn  
☐ PC977 ☐ Filed ☐ On File ☐ Repr. Adv / Wav ☐ Bail/OR/ SORP ☐ Rect Dr Rpt ☐ FAR/ ERC ☐ Bail Apply ☐ Balance Exonerated ☐ Bond # ☐ Gen  
☐ NG ☐ Entered by CRT ☐ NGBRI / Adv ☐ PSet ☐ Prelim ☐ Readiness ☐ S/B MTC ☐ Bail Exonerated ☐ Forfeited ☐ Bond # ☐ App  
☐ Denies Priors/ Allegations/ Enhancements/Refusal ☐ Further ☐ Jury ☐ CT ☐ Peo / Def Wav Jury ☐ Reassumption Filed ☐ Forfeiture Set Aside ☐ Bail Rept  
☐ TW ☐ TNW ☐ TW / WD ☐ TW Sentence ☐ Ref'd ☐ Pre-jud ☐ Costs Within 30 Days to Court  
☐ Ref / Appt PD / AD / IDO ☐ Conflict Decl ☐ APO / DADS/ Prop 36 ☐ P36 Re-Assmt ☐ SORP / OR ☐ Revoked ☐ Reinstated ☐ May Post & Forfeit  
☐ Relieved ☐ Appt'd ☐ Crim Proc Susp ☐ Rein ☐ BW Ordered \$ ☐ Stayed ☐ To Issue  
☐ Hrg on Motion ☐ Doubt Decl Pursuant PC 1368 ☐ No Cite Release/SCIT ☐ No Request ☐ Cash Only  
☐ Granted ☐ Denied ☐ Submitted ☐ Off Cal ☐ Subm on Report ☐ Found ☐ BW Set Aside ☐ Recalled ☐ Filed ☐ Remain Out  
☐ Stip to Comm ☐ Drs. Appointed ☐ Max Term ☐ Committed ☐ Proof of  
☐ Prelim Wav ☐ Certified to General Jurisdiction ☐ MDA / COM Amended to  
☐ Amended to ☐ (M) VC12500(a) / VC23103(a) ☐ Pur VC23103.5 ☐ DA Stmt Filed  
 PLEA Conditions: ☐ None ☐ No State Prison ☐ PC17 after 1 Yr Prob ☐ Includes VOP  
 Add to Cal. ☐ Vacate pending date  
 Dismissal / Striking ☐ Subm time of Sent ☐ Harvey Stip

☐ Jail / Prison Term of ☐ Add to Cal. ☐ Vacate pending date  
☐ Dismissal / Striking ☐ Subm time of Sent ☐ Harvey Stip  
☐ Adv ☐ Max Pen ☐ Parole/Prob ☐ Appeal ☐ Immig ☐ Reg PC290/HS11590/PC457.1/PC186.30 ☐ Future Serious Felony ☐ PC12021/PC12316(b)(1)/VC14607.8/PC668  
☐ Wav Right to ☐ Counsel ☐ Court / Jury Trial ☐ Subpoena / Confront / Examine Witnesses ☐ Self-incrimination ☐ Written Waiver filed ☐ Plea / Absentia filed  
☐ COP ☐ GUILTY ☐ NOLO CONTENDERE to charges & admits enhancements / allegations / priors ☐ PC17 ☐ Arbuckle ☐ Factual Basis found ☐ Findings stated  
☐ Prop 36 Granted / Unamenable / Refused / Term ☐ DEJ Eligibility Filed ☐ DEJ Granted / Rein / Term ☐ Fee \$ ☐ Guilty, Plea Rendec  
☐ Waives Referral ☐ Ref'd to APO Full Rpt ☐ FINES/FEES: PAY TO ☐ Ref to DOR ☐ TRAFFIC ☐ COURT ☐ TODAY Audit #  
☐ Sent Suspended ☐ PROBATION DENIED  
 PROBATION ☐ Execution ☐ Imposition of sentence suspended for probation period  
☐ COURT ☐ FORMAL PROBATION GRANTED for \_\_\_\_\_ Days / Mos / Yrs  
☐ Report to APO within \_\_\_\_\_ Days ☐ Terminated ☐ Upon Release  
☐ Perform \_\_\_\_\_ Hrs Volunteer Work as directed PO / SAP ☐ In lieu of fine/Jail  
☐ Not drive w/o valid DL & Ins ☐ Adv VC23600 ☐ HTO ☐ Re-refer  
☐ MOP ☐ FOP ☐ 12 hrs ☐ 3 mos ☐ 9 mos ☐ Enroll within \_\_\_\_\_ days  
☐ DL Susp/ Rest'd/ Rvk'd for \_\_\_\_\_ ☐ IID Not/Ordered/ Rm'd Term \_\_\_\_\_ Yrs  
☐ No contact with victim or family / co-defts unless appr by APO ☐ PC1202.05  
☐ DVPO issued / mod / term'd Exp \_\_\_\_\_ ☐ Victim Present  
☐ No Contact ☐ Peaceful Contact ☐ DSA thru APO / DOR / CRT ☐ Filed  
☐ Not own/possess deadly weapons ☐ Destroy/return weapon  
☐ Stay away from \_\_\_\_\_  
☐ Submit Search/Testing ☐ Educ/Voc Trng/Empl ☐ No alcohol / drugs or where sold  
☐ Substance Abuse; Psych, Theft, Anger Mgmt, DV, Parenting cnsl / prgm  
☐ PC296 (DNA) ☐ PC1202.1 HIV Test / Education  
 VOP: ☐ Wav ☐ Arr'd ☐ Admits/Denies Viol ☐ Court Finds VOP / No VOP  
☐ Prob Rein / Mod / Term'd / Revoked / Remains Revoked / Ext to \_\_\_\_\_  
☐ Original Terms & Conditions Except as Amended herein  
☐ Co-terminous with \_\_\_\_\_ ☐ No Further Penalties / Reviews  
 Other:

JAIL/PRISON ☐ See Attachm't Pg for Add'l Orders, Charges, PC1385 Reasons  
 County Jail  
 Count F/M Violation Prison Term / Yrs Enhancement / Priors Yrs / Styd / Strkn HRS / DAYS / MOS

Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Total

CTS = \_\_\_\_\_ ACT + \_\_\_\_\_ ☐ PC4019 ☐ 1/2 ☐ 1/3 ☐ PC2933.1 = \_\_\_\_\_ TOTAL DAYS TOTAL TERM  
☐ Straight time ☐ In Camp ☐ WWP ☐ PC1209 Fees ☐ Waived ☐ Court Rec ☐ All / Except ☐ EMP/PSP/ERP/DRP/Co Parole/NP  
☐ Sent Deemed Served ☐ Rpt to Parole w/in \_\_\_\_\_ ☐ Adv \_\_\_\_\_ Yrs Parole/Appeal Rights ☐ Consec ☐ Conc to \_\_\_\_\_  
☐ Bal CJ Susp ☐ All but \_\_\_\_\_ Hrs/Days/Mos ☐ On Cond Complete Residential Treatment Prgm ☐ Serve Consec MO/TU/WE/TH/FR/SA/SU  
☐ Pre-process \_\_\_\_\_ AM/PM ☐ Stay / Surrender / Transport to \_\_\_\_\_ @ \_\_\_\_\_ AM/PM or Sooner  
☒ REMANDED-BAIL \$ \_\_\_\_\_ ☐ REMAIN AS SET ☐ NO BAIL ☐ COMMITTED ☐ RELEASED ☐ OR ☐ SORP ☐ JAC PHONE ASSMT ☐ P36  
☐ AS COND OF SORP ☐ BAIL INCREASED / REDUCED ☐ TO PRGM AS REC BY JAC DOC TO ARRANGE TRANSPORT UPON AVAIL BED

# **EXHIBIT 1**

## **(Vol. 4)**



COURT OF APPEAL, STATE OF CALIFORNIA,  
IN AND FOR THE SIXTH APPELLATE DISTRICT

THE PEOPLE,

V.

CRAIG RICHARD CHANDLER

PLAINTIFF AND  
RESPONDENT,

DEFENDANT AND  
APPELLANT.

COURT OF APPEAL NO.: H040429

VOL. 4 of 7

PAGES 649 thru 866

**CLERK'S TRANSCRIPT**

CLERK'S TRANSCRIPT ON APPEAL FROM THE JUDGMENT OF THE SUPERIOR COURT OF THE  
STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF SANTA CLARA.

SUPERIOR COURT NUMBER: C1223754

HONORABLE ARTHUR BOCANEGRA, JUDGE

APPEARANCES:

ATTORNEY GENERAL  
455 GOLDEN GATE AVENUE  
ROOM 11000  
SAN FRANCISCO, CA 94102

COUNSEL FOR PLAINTIFF  
AND RESPONDENT

SIXTH DISTRICT APPELLATE PROGRAM  
100 NORTH WINCHESTER BLVD, SUITE 310  
SANTA CLARA, CA 95050

COUNSEL FOR DEFENDANT  
AND APPELLANT

NOTICE OF APPEAL FILED November 22, 2013

NOTICE OF COMPLETION JAN 29 2014

MADDEN AND REDDING  
ATTORNEYS AT LAW  
SUITE 801  
1625 THE ALAMEDA  
SAN JOSE, CALIFORNIA 95126  
(408) 275-8100

BRIAN MADDEN, SB# 55869  
MADDEN & REDDING  
1625 The Alameda, Suite 801  
San Jose, California 95126  
Telephone: (408) 275-8100  
Facsimile: (408) 275-8199  
Attorney for CRAIG RICHARD CHANDLER

FILED

2012 JUN 11 P 3:49

David H. Varnas, Clerk of the Superior Court  
County of Santa Clara, California  
By: *[Signature]*  
S. Alameda Clerk

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SANTA CLARA

PEOPLE OF THE STATE OF  
CALIFORNIA,

Plaintiff

v.

CRAIG RICHARD CHANDLER,

Defendant.

Case No. C1223754

NOTICE OF MOTION AND MOTION TO  
SET BAIL; MEMORANDUM OF POINTS  
AND AUTHORITIES; DECLARATION OF  
BRIAN MADDEN

Date: 6/13/12  
Time: 1:30 p.m.  
Dept: 24

To the District Attorney, County of Santa Clara, and Allison  
Filo, Deputy District Attorney:


NOTICE IS GIVEN that, on June 13, 2012 at 1:30 p.m., or as  
soon thereafter as the matter may be heard in Department 24 of  
the above-entitled court, defendant CRAIG RICHARD CHANDLER will  
move for an order admitting defendant to bail. The motion will  
be made on the grounds that the defendant is entitled to bail as  
a matter of right, there is no substantial likelihood that the  
Defendant's release would result in great bodily harm to another  
person, and there is no substantial likelihood that Defendant is  
a flight risk or would not appear for all court appearances.

The motion will be based on this notice of motion, on the

649

1 memorandum of points and authorities served and filed herewith,  
 2 on the attached declaration of Brian Madden, on the records and  
 3 file in this action, and on such evidence as may be presented at  
 4 the hearing on the motion.

5 Dated: June 11, 2012

6   
 7 BRIAN MADDEN,  
 Attorney for Defendant

8 MEMORANDUM OF POINTS AND AUTHORITIES  
 9 SUPPORTING THE SETTING OF BAIL

10 FACTS

11 Defendant is charged with five (5) counts of non-forcible  
 12 lewd conduct with a child under 14 in violation of Penal Code  
 13 §288(a). There are five complaining witnesses. Each count  
 14 contains a multiple victim allegation under Penal Code §667.61(b)  
 15 and (e). The five complaining witnesses were students of the  
 16 defendant at a San Jose Elementary School, and all of the acts of  
 17 sexual misconduct are alleged to have occurred in Defendant's  
 18 classroom during normal school hours. Defendant is on mandatory  
 19 leave of absence without pay from his school district, and his  
 20 teaching credential has been suspended. The bail schedule for  
 21 his offenses is "no bail". No bail has been set.

22 BAIL IS A MATTER OF RIGHT IN ALL  
 23 CASES OTHER THAN CAPITAL CASES

24 A defendant charged with a capital offense cannot be  
 25 admitted to bail. Penal Code §1270.5. A defendant charged with  
 26 any other offense "may be admitted to bail before conviction as a  
 27 matter of right." Penal Code §1271.  
 28

MADDEN AND REDDING  
 ATTORNEYS AT LAW  
 SUITE 801  
 1625 THE ALAMEDA  
 SAN JOSE, CALIFORNIA 95126  
 (408) 275-8100

650

DEFENDANT IS ENTITLED TO A BAIL HEARING

A defendant charged with a violent felony is entitled to a bail hearing. Penal Code §1270.1(a)(1). At the hearing the court shall consider evidence of past court appearances, the maximum potential sentence, the danger the defendant may pose to other persons if he is released, his ties to the community, and his ability to post bail. Penal Code §1270.1(c).

BAIL HEARING ISSUES

A. Statutory Issues

1. Past court appearances. In 1996 in Monterey County Defendant was convicted of a felony violation of Attempted Burglary. He received a three year probationary sentence and a 30 day suspended jail sentence. He made all required court appearances and successfully completed his probation. In 2002 the court reduced the conviction to a misdemeanor and cleared his record pursuant to Penal Code §1203.4. He has no other criminal record.

2. Maximum potential sentence. The maximum aggregate sentence on all five counts is 75 years to life. The minimum sentence is 15 years to life.

3. The danger the defendant may pose to other persons if released. All the alleged sexual misconduct is alleged to have occurred during school hours in Defendant's classroom. As a result of his arrest, Defendant has been placed on mandatory leave of absence without pay, and his teaching credential has been suspended. Clearly, as Defendant is no longer employed as a teacher, none of the complaining witnesses is in any danger.

MADDEN AND REDDING  
ATTORNEYS AT LAW  
SUITE 801  
1625 THE ALAMEDA  
SAN JOSE, CALIFORNIA 95126  
(408) 275-8100

MADDEN AND REDDING  
ATTORNEYS AT LAW  
SUITE 801  
1625 THE ALAMEDA  
SAN JOSE, CALIFORNIA 95126  
(408) 275-8100

Following the Defendant's arrest his computers, phones and electronic devices were seized pursuant to a search warrant and the seized evidence was subjected to a forensic search. Moreover, his home and vehicle were searched. The searches have not resulted in the discovery of any child pornography, or any other material demonstrating a sexual interest in children. The total absence of the aforementioned material is consistent with the Defendant not posing a danger to other children.

4. Defendant's ties to the community. The Defendant has extensive ties to the community. He is married to Marina Chandler who is employed as an elementary school teacher in San Jose. The Chandlers have three very young children, a son, age 4, and two daughters, ages 2 and 3 months. The Chandlers own a home which is located less than one mile from this Courthouse and more than five miles from the school where the alleged incidents occurred.

The Defendant was born and raised in Monterey. Defendant and his wife met in college at California State University Monterey Bay. After graduating from CSUMB, Defendant and his wife attended UC Davis where they earned teaching credentials in 2002. The Chandlers have been employed as elementary school teachers in San Jose since 2003; however, they have always worked at different schools.

5. Ability to post bail. Defendant has the ability to post substantial bail.

B. Additional Factors

1. Since his arrest, Defendant has been a model inmate.

652

MADDEN AND REDDING  
ATTORNEYS AT LAW  
SUITE 801  
1625 THE ALAMEDA  
SAN JOSE, CALIFORNIA 95126  
(408) 275-8100

1 For the last two and one-half months Defendant has helped an  
2 outside teacher teach math, language arts, writing, science and  
3 social studies to inmates at Elmwood. He teaches five days a  
4 week from 1:00 p.m. to 3:30 p.m.

5 2. Defendant's passport is in the possession of his  
6 attorney who has been authorized to surrender it to the Court  
7 should bail be set.

8 3. Finally, Defendant is willing to pay for electronic  
9 monitoring with a radio frequency tether or GPS for home  
10 detention should the Court order EMP as a condition of his  
11 release.

12 Dated: June 11, 2012



BRIAN MADDEN,  
Attorney for Defendant

16 DECLARATION OF BRIAN MADDEN

17 1. I am Defendant's attorney in this matter.

18 2. I have reviewed the Defendant's rap sheet which reveals  
19 his only prior criminal conviction was for attempted burglary in  
20 Monterey, California in 1996. Defendant has no other criminal  
21 record. Moreover, in 2002 the felony conviction was reduced to a  
22 misdemeanor pursuant to Penal Code §17 and his record was cleared  
23 pursuant to Penal Code §1203.4.

24 3. I am in possession of a January 13, 2012 letter from  
25 Defendant's school district advising Defendant he is on mandatory  
26 leave of absence from the school district and his teaching  
27 credential is suspended.

28 653


MADDEN AND REDDING  
ATTORNEYS AT LAW  
SUITE 801  
1625 THE ALAMEDA  
SAN JOSE, CALIFORNIA 95126  
(408) 278-8100

4. I have reviewed the police report and confirmed all of the alleged sexual misconduct occurred in Defendant's classroom during normal school hours.

5. I have reviewed the police report and confirmed that the searches of Defendant's seized computers, phones and electronic devices did not reveal any material indicative of sexual interest in children.

6. I have communicated with Lee Smith of LCA, a private electronic monitoring program. Mr. Smith has advised me LCA is willing to electronically monitor Defendant should the Court order EMP as a condition of Defendant's release bail. I will provide the Court with a letter from Mr. Smith at the time of the hearing. Mr. Smith will be present at the hearing.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 11<sup>th</sup> day of June, 2012 at San Jose, California.

  
BRIAN MADDEN,  
Attorney for Defendant

#### CONCLUSION

For the foregoing reasons, Defendant requests the Court to set substantial bail and to order any additional condition(s) the Court deems appropriate.

Dated: June 11, 2012

  
BRIAN MADDEN,  
Attorney for Defendant

654

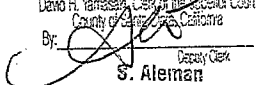
1 BRIAN MADDEN, SB# 55869  
 2 MADDEN & REDDING  
 3 1625 The Alameda, Suite 801  
 4 San Jose, California 95126  
 5 Telephone: (408) 275-8100  
 6 Facsimile: (408) 275-8199

7 Attorney for Defendant  
 8 CRAIG RICHARD CHANDLER

FILED

2012 JUN 11 P 3:49

David H. Yarnes, Clerk of the Superior Court  
 County of Santa Clara, California

By:  Deputy Clerk  
 S. Aleman

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA

9 PEOPLE OF THE STATE OF  
 10 CALIFORNIA,

Case No. C1223754

11 Plaintiff

PROOF OF SERVICE

12 v.

13 CRAIG RICHARD CHANDLER,

14 Defendant.

15 I, the undersigned, declare:

16 I am over the age of 18 years and not a party to the within  
 17 action. My business address is 1625 The Alameda, Suite 801, San  
 18 Jose, California, 95126.

19 On June 11, 2012, I served:

20 NOTICE OF MOTION AND MOTION TO SET BAIL; MEMORANDUM OF POINTS AND  
 21 AUTHORITIES; DECLARATION OF BRIAN MADDEN

22 on the interested party/parties by sending a true copy thereof to  
 23 the following addressee(s):

24 Allison Filo  
 25 Deputy District Attorney  
 26 Santa Clara County District  
 27 Attorney's Office  
 28 70 W. Hedding Street  
 San Jose, CA 95110  
 Fax No. (408) 299-8440

Service was made by the following method(s):

X BY MAIL by placing a true copy thereof in a sealed envelope  
 addressed to the addressee(s) shown above, with postage

655

MADDEN AND REDDING  
 ATTORNEYS AT LAW  
 SUITE 801  
 1625 THE ALAMEDA  
 SAN JOSE, CALIFORNIA 95126  
 (408) 275-8100



thereon fully prepaid, in the United States mail at San Jose, California.

BY HAND by causing a true copy thereof enclosed in a sealed envelope to be hand delivered to the addressee(s) shown above.

X BY FACSIMILE by causing a true copy thereof to be sent by facsimile to the interested party/parties to the facsimile number(s) shown above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 11<sup>th</sup> day of June, 2012, at San Jose, California.

  
SUMMER DOWLING

MADDEN AND REDDING  
ATTORNEYS AT LAW  
SUITE 801  
1625 THE ALAMEDA  
SAN JOSE, CALIFORNIA 95126  
(408) 275-8100

656

L 5 SUPERIOR COURT  
 190 W. HEDDING ST.  
 SAN JOSE, CA 95110  
 PEOPLE VS. CRAIG RICHARD CHANDLER  
 LKA. 1361 N SAN PEDRO ST  
 SAN JOSE, CA 95110  
 JUDGE HON. ROBERT A. MADDEN  
 REPORTER A. PARRISH  
 DEF. ATTY. MADDEN, BRIAN (G)  
 CHARGES F(001)PC288(A)  
 F(003)PC288(A)  
 F(004)PC288(A)  
 F(002)PC288(A)  
 F(004)PC288(A)  
 VIOLATION DATE  
 09/01/2010

8-6-18 830 AM  
 NEXT APPEARANCE → RAS  
 Defendant Present ☐ Not Present ☐ Atty Present ☒ AIR  
 Arr'd ☐ Adv ☐ Arr Wav ☐ Amend Comp/Info ☐ Arr ☐ Plea ☐ IDC ☐ PTC ☐ Prob / Sent ☐ Interpreter ☐ Sworn  
 PC977 ☐ Filed ☐ On File ☐ Repr. Adv / Wav ☐ Bail/ OR/ SORP ☐ Rect Dr Rpt ☐ FAR/ ERC ☐ Bail Apply ☐ Balance Exonerated ☐ Sworn  
 NG ☐ Entered by CRT ☐ NGBRI/ Adv ☐ PSet ☐ Prelim ☐ Readiness ☐ S / B MTC ☐ Bail Exonerated ☐ Forfeited ☐ Bond #  
 Denies Priors/ Allegations/ Enhancements/Refusal ☐ Further ☐ Jury ☐ CT ☐ Peo / Def Wav Jury ☐ Reassumption Filed ☐ Forfeiture Set Aside ☐ Bail Rein  
 TW ☐ TNW ☐ TW / WD ☐ TW Sentence ☐ Ref'd ☐ Costs Within 30 Days to Court  
 Ref / Appt PD / AD / IDO ☐ Conflict Decl ☐ APO / DADS/ Prop 36 ☐ P36 Re-Assmt ☐ SORP / OR ☐ Revoked ☐ Reinstated ☐ May Post & Forfeit  
 Relieved ☐ Appt'd ☐ Crim Proc Susp ☐ Rein ☐ BW Ordered \$ ☐ Stayed ☐ To Issue  
 Hrg on Motion ☐ CORP / BAD RED. ☐ Doubt Decl Pursuant PC 1368 ☐ No Cite Release/SCIT ☐ No Request ☐ Cash Only  
 Granted ☐ Denied ☐ Submitted ☐ Off Cal ☐ Subm on Report ☐ Found ☐ BW Set Aside ☐ Recalled ☐ Filed ☐ Remain Out  
 Stip to Comm ☐ Drs. Appointed ☐ Max Term ☐ Committed ☐ Proof of ☐ Mr. Smith from LCA  
 Prelim Wav ☐ Certified to General Jurisdiction ☐ MDA / COM Amended to ☐ is present as well as  
 Amended to ☐ (M) VC12500(a) / VC23103(a) ☐ Pur VC23103.5 ☐ DA Stmt Filed ☐ X's family.  
 PLEA Conditions: ☐ None ☐ No State Prison ☐ PC17 after 1 Yr Prob ☐ Includes VOP  
 Jail / Prison Term of ☐ Add to Cal ☐ Vacate pending date  
 Dismissal / Striking ☐ Subm time of Sent ☐ Harvey Stip  
 Adv ☐ Max Pen ☐ Parole/Prob ☐ Appeal ☐ Immig ☐ Reg PC290/HS11590/PC457.1/PC186.30 ☐ Future Serious Felony ☐ PC12021/PC12316(b)(1)/VC14607.8/PC666  
 Wav Right to ☐ Counsel ☐ Court / Jury Trial ☐ Subpoena / Confront / Examine Witnesses ☐ Self-incrimination ☐ Written Waiver filed ☐ Plea / Absentia filed  
 COP ☐ GUILTY: ☐ NOLO CONTENDERE to charges & admits enhancements / allegations / priors ☐ PC17 ☐ Arbuckle ☐ Factual Basis found ☐ Findings stated  
 Prop 36 Granted / Unamenable / Refused / Term ☐ DEJ Eligibility Filed ☐ DEJ Granted / Rein / Term Fee \$ ☐ Guilty Plea Rendered  
 Waives Referral ☐ Ref'd to APO Full Rpt ☐ FINES/FEES: PAY TO ☐ Ref to DOR ☐ TRAFFIC ☐ COURT ☐ TODAY Audit #  
 Sent Suspended ☐ PROBATION DENIED ☐ COUNT \$ ☐ + PA \$ ☐ Purs HS11350d  
 PROBATION ☐ Execution ☐ Imposition of sentence suspended for probation period ☐ COUNT \$ ☐ + PA \$ ☐ PC290.3  
 COURT ☐ FORMAL PROBATION GRANTED for ☐ Days / Mos / Yrs ☐ AIDS / CPP ☐ + PA \$ ☐ SORP  
 Report to APO within ☐ Days ☐ Terminated ☐ Upon Release ☐ DPF ☐ + PA \$ ☐ EMAT \$  
 Perform ☐ Hrs Volunteer Work as directed PO / SAP ☐ in lieu of fine/Jail ☐ LAB ☐ + PA \$  
 Not drive w/o valid DL & Ins ☐ Adv VC23600 ☐ HTO ☐ Re-refer ☐ DRF / RF ☐ Add'l RF \$ ☐ Susp'd PC1202.44/4  
 MOP ☐ FOP ☐ 12 hrs ☐ 3 mos ☐ 9 mos ☐ Enroll within ☐ days ☐ AEF ☐ Original Fine \$  
 DL Susp/ Restr'd/ Rvk'd for ☐ IID Not/Ordered/ Rmv'd Term ☐ Yrs ☐ SECA/COPA ☐ CTS PC2900.5 \$  
 No contact with victim or family / co-defts unless appr by APO ☐ PC1202.05 ☐ ICMF ☐ TOTAL DUE \$  
 DVPO issued / mod / term'd Exp ☐ Victim Present ☐ ICIN ☐ Payments Granted / Modified  
 No Contact ☐ Peaceful Contact ☐ DSA thru APO / DOR / CRT ☐ Filed ☐ AR ☐ \$ / Mo beginning  
 Not own/possess deadly weapons ☐ Destroy/return weapon ☐ SHELTER ☐ FINE STAYED  
 Stay away from ☐ DV ☐ Committed @ \$ / day ☐ May Pay Out  
 Submit Search/Testing ☐ Educ/Voc Trng/Empl ☐ No alcohol / drugs or where sold ☐ ATTY ☐ Consec/Conc to  
 Substance Abuse: Psych, Theft, Anger Mgmt, DV, Parenting cnsl / prgm ☐ ASF\$25/CPF\$10 ☐ Fine / Fees ☐ Deemed Satisfied ☐ Commuted  
 PC296 (DNA) ☐ PC1202.1 HIV Test / Education ☐ P/INVEST ☐ \$ / Mo ☐ Waived  
 VOP: ☐ Wav ☐ Arr'd ☐ Admits/Denies Viol ☐ Court Finds VOP / No VOP ☐ CJAF \$129.75/\$259.50 ☐ Add'l Fees Waived  
 Prob Rein / Mod / Term'd / Revoked / Remains Revoked / Ext to ☐ Restitution ☐ General \$ to  
 Original Terms & Conditions Except as Amended herein ☐ As determined by APO/Court ☐ Referred to VWAC ☐ Collect Civilly  
 Co-terminous with ☐ No Further Penalties / Reviews  
 Other:

JAIL/PRISON ☐ See Attachm't Pg for Add'l Orders, Charges, PC1385 Reasons  
 Count F/M Violation Prison Term / Yrs Enhancement / Priors Yrs / Styd / Strkn County Jail HRS / DAYS / MOS  

Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Total

 CTS = ACT + ☐ PC4019 ☐ 1/2 ☐ 1/4 ☐ PC2933.1 = TOTAL DAYS TOTAL TERM  
☐ Straight time ☐ In Camp ☐ WWP ☐ PC1209 Fees ☐ Waived ☐ Court Rec ☐ All / Except ☐ EMP/PSP/ERP/DRP/Co Parole/NP  
☐ Sent Deemed Served ☐ Rpt to Parole w/in ☐ Adv ☐ Yrs Parole/Appeal Rights ☐ Consec ☐ Conc to ☐ 657  
☐ Bal CJ Susp ☐ All but ☐ Hrs/Days/Mos ☐ On Cond Complete Residential Treatment Prgm ☐ Serve Consec MO/TU/WE/TH/FR/SA/SU  
☐ Pre-process ☐ AM/PM ☐ Stay / Surrender / Transport to ☐ @ ☐ AM/PM or Sooner  
☒ REMANDED-BAIL \$ ☐ REMAIN AS SET ☐ NO BAIL ☐ COMMITTED ☐ RELEASED ☐ OR ☐ SORP ☐ JAC PHONE ASSMT ☐ P36  
☐ AS COND OF SORP ☐ BAIL INCREASED / REDUCED ☐ TO PRGM AS REC BY JAC DOC TO ARRANGE TRANSPORT UPON AVAIL BED  
 DISTRIBUTION: ORIGINAL - FILE. GREEN - DOC. BLUE - CLIC / DOR PURPLE - PROBATION. BROWN - DEFENDANT

117 SUPERIOR COURT  
190 W. HEDDING ST  
SAN JOSE, CA 95110  
PEOPLE VS. CRAIG RICHARD CHANDLER  
J.A. 1361 N SAN PEDRO ST  
SAN JOSE, CA 95110  
JUDGE HON. RISE, J. PICHON  
REPORTER M. DAVIS  
DEF. ATTY. MADDEN, BRIAN (G)  
CHARGES F(001)PC288(A)  
F(003)PC288(A)  
F(005)PC288(A)

CASE NO. C1223754  
CEN 12001535  
DATE 08/06/2012 8:30 AM DEPT. 24  
10/25/1976 CAB3721090 CDY BK:Y  
CLERK C. GUERRA EBK966 M  
HEARING MASTER TRIAL CALENDAR  
DV: AGENCY SJ-04313- UNKNOWN  
CHILD: STATUS I-SET -NBA TW Y  
D.A.A. BERNHARD APO  
VIOLATION DATE 09/01/2010

10-29-12 830 024

**NEXT APPEARANCE**

☐ Defendant Present ☒ Not Present ☒ Atty Present ☐ AD / PD / IDO / Special App

☐ Arr'd ☐ Adv ☐ Wav ☐ Amend Comp/Info ☐ Arr ☐ Plea ☐ IDC ☐ BTO ☐ Prob / Sent ☐ Interpreter ☐ Sworn

☐ PC977 ☐ Filed ☐ On File ☐ Repr. Adv / Wav ☐ Bail / OR / SORP ☐ Rect Df Rpt ☐ FAR-ERC ☐ Bail Apply ☐ Balance Exonerated

☐ NG ☐ Entered by CRT ☐ NGBRI / Adv ☐ PSet ☐ Prelim ☐ Readiness ☒ SOR MTC ☐ Bail Exonerated ☐ Forfeited ☐ Bond #

☐ Denies Priors / Allegations / Enhancements / Refusal ☐ Further ☐ Jury ☐ CT ☐ Pso / Def Wav Jury ☐ Reassumption Filed ☐ Forfeiture Set Aside ☐ Bail Rein

☐ TW ☐ TNW ☐ TW / WD ☐ TW Sentence ☐ Ref'd ☐ Costs Within 30 Days to Court

☐ Ref / Appt PD / AD / IDO ☐ Conflict Decl ☐ APO / DADS / Prop 36 ☐ P36 Re-Assmt ☐ SORP / OR ☐ Revoked ☐ Reinstated ☐ May Post & Forfeit

☐ Relieved ☐ Appt'd ☐ Crim Proc Susp ☐ Rein ☐ BW Ordered ☐ Stayed ☐ To Issue

☐ Hrg on Motion ☐ Doubt Decl Pursuant PC 1368 ☐ Subm on Report ☐ Found ☐ BW Set Aside ☐ Recalled ☐ Filed ☐ Remain Out

☐ Granted ☐ Denied ☐ Submitted ☐ Off Cal ☐ Max Term ☐ Committed ☐ Proof of

☐ Stip to Comm ☐ Dis. Appointed ☐ Prelim Waiver ☐ Certified to General Jurisdiction ☐ MDA / COM Amended to

☐ Amended to (M) VC12500(a) / VC23103(a) ☐ Pur VC23103.5 ☐ DA Stmt Filed

**PLEA Conditions:** ☐ None ☐ No State Prison ☐ PC17 after 1st Prob. ☐ Includes VOP

☐ Jail / Prison Term of ☐ Add to Cal ☐ Vacate pending date

☐ Dismissal / Striking ☐ Subm time of Sent ☐ Harvey Stip

☐ Adv ☐ Max Pen ☐ Parole / Prob ☐ Appeal ☐ Immig ☐ Reg PC290/HS11590/PC457.1/PC186.30 ☐ Future Serious Felony ☐ PC12021/PC12316(b)(1)/VC14607.8/PC665

☐ Wav Right to ☐ Counsel ☐ Court / Jury Trial ☐ Subpoena / Confront / Examine Witnesses ☐ Self-incrimination ☐ Written Waiver filed ☐ Plea / Absentia filed

☐ COR ☒ GUILTY ☐ NO LO CONTENDERE to charges & admits enhancements / allegations / priors ☐ PC17 ☐ Ar buckle ☐ Factual Basis found ☐ Findings stated

☐ Prop 36 Granted / Unamenable / Refused / Term ☐ DEJ Eligibility Filed ☐ DEJ Granted / Rein / Term ☐ Fee \$ ☐ Guilty Plea Rendered

☐ Waives Referral ☐ Ref'd to APO Full Rpt ☐ FINES/FEES: PAY TO ☐ Ref to DOR ☐ TRAFFIC ☐ COURT ☐ TODAY Audit #

☐ Sent Suspended ☐ PROBATION DENIED ☐ COUNT \$ ☐ PA \$ ☐ Purs HS11350d

**PROBATION:** ☐ Executions ☐ Imposition of sentence suspended for probation period ☐ COUNT \$ ☐ PA \$ ☐ PC290.3

☐ COURT ☐ FORMAL PROBATION GRANTED for ☐ Days / Mos / Yrs ☐ AIDS / CPP \$ ☐ PA \$ ☐ SORP

☐ Report to APO within ☐ Days ☐ Terminated ☐ Upon Release ☐ DPF \$ ☐ PA \$ ☐ EMAT \$

☐ Perform ☐ Hrs Volunteer Work as directed PO / SAP: ☐ In lieu of fine/Jail ☐ LAB \$ ☐ PA \$

☐ Not drive w/o valid DL & Ins ☐ Adv VC23600 ☐ HTO ☐ Re-refer ☐ DRF / RF \$ ☐ Add'l RF \$ ☐ Susp'd PC1202.44/4E

☐ MOP ☐ FOP ☐ 12 hrs ☐ 3 mos ☐ 9 mos ☐ Enroll within ☐ days ☐ AEF \$ ☐ Original Fine \$

☐ DL Susp/ Restr'd / Rv'd for ☐ IID Not Ordered / Rm'd Term ☐ Yrs ☐ SECA/COPA \$ ☐ CTS PC2900.5 \$

☐ No contact with victim or family / co-defts unless appr by APO ☐ PC1202.05 ☐ ICMF \$ ☐ TOTAL DUE \$

☐ DVPO issued / mod / term'd Exp ☐ Victim Present ☐ ICIN \$ ☐ Payments Granted / Modified

☐ No Contact ☐ Peaceful Contact ☐ DSA thru APO / DOR / CRT ☐ Filed ☐ AR \$ ☐ / Mo beginning

☐ Not own/possess deadly weapons ☐ Destroy/return weapon ☐ SHELTER \$ ☐ FINE STAYED

☐ Stay away from ☐ DV: ☐ Committed @ \$ ☐ /day ☐ May Pay Out

☐ Submit Search/Testing ☐ Educ/Voc Tmg/Empl ☐ No alcohol / drugs or where sold ☐ ATTY \$ ☐ Consec/Conc to

☐ Substance Abuse, Psych, Theft, Anger Mgmt, DV, Parenting cnsl / prgm ☐ ASF\$25/CPF\$10 \$ ☐ Fine / Fees ☐ Deemed Satisfied ☐ Committed

☐ PC296 (DNA) ☐ PC1202.1 HIV Test / Education ☐ P/INVEST \$ ☐ P/SUP \$ ☐ /Mo ☐ Waived

**VOP:** ☐ Wav ☐ Arr'd ☐ Admits/Denies Viol ☐ Court Finds VOP / No VOP ☐ CJAF \$129.75/\$259.50 ☐ Add'l Fees Waived

☐ Prob Rein / Mod / Term'd / Revoked / Remains Revoked / Ext to ☐ Restitution ☐ General \$ ☐ to

☐ Original Terms & Conditions Except as Amended herein ☐ As determined by APO/Court ☐ Referred to VWAC ☐ Collect Civilly

☐ Co-terminous with ☐ No Further Penalties / Reviews

Other:

JAIL/PRISON <input type="checkbox"/> See Attachm't Pg for Add'l Orders, Charges, PC1385 Reasons					County Jail	
Count	F/M	Violation	Prison Term / Yrs	Enhancement / Priors	Yrs / Styd / Strkn	HRS / DAYS / MOS

Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Total

CTS = ACT + ☐ PC4019 ☐ 1/2 ☐ 1/4 ☐ PC2933.1 = TOTAL DAYS TOTAL TERM

☐ Straight time ☐ In Camp ☐ WWP ☐ PC1209 Fees ☐ Waived ☐ Court Rec ☐ All / Except ☐ EMP/PSP/ERP/DRP/Co Parole/NP

☐ Sent Deemed Served ☐ Rpt to Parole w/in ☐ Adv ☐ Yrs Parole/Appeal Rights ☐ Consec ☐ Conc to

☐ Bal CJ Susp ☐ All but ☐ Hrs/Days/Mos ☐ On Cond Complete Residential Treatment Prgm ☐ Serve Consec MO/TU/WE/TH/FR/SA/SU

☐ Pre-process ☐ AM/PM ☐ Stay / Surrender / Transport to ☐ @ ☐ AM/PM or Sooner

☒ REMAIND-BAIL \$ ☐ REMAIN AS SET ☐ NO BAIL ☐ COMMITTED ☐ RELEASED ☐ OR ☐ SORP ☐ JAC PHONE ASSMT ☐ P36

☐ AS COND OF SORP ☐ BAIL INCREASED / REDUCED ☐ TO PRGM AS REC BY JAC DOC TO ARRANGE TRANSPORT UPON AVAIL BED

DISTRIBUTION: ORIGINAL - FILE GREEN - DOC BLUE - CLIC / DOR PURPLE - PROBATION BROWN - DEFENDANT

1 HALL OF JUSTICE  
190 W. HEDDING ST.  
SAN JOSE, CA 95110

PEOPLE VS. CRAIG RICHARD CHANDLER  
LKA. 1361 N SAN PEDRO ST  
SAN JOSE, CA 95110

JUDGE HON. DEBORAH RYAN Kenneth  
REPORTER B. Machado shapko  
DEF. ATTY. MADDEN, BRIAN (G) D.A. not interested party  
CHARGES F(001)PC288(A) F(002)PC288(A) F(003)PC288(A) F(004)PC288(A) F(005)PC288(A)

CASE NO. C1223754  
CEN 12001535  
DATE 09/28/2012 1:30 PMPT. 448  
10/25/1976 CAB3721090 CDY BK:Y  
CLERK WINTERS/SALISBURY, L EBK966 M  
HEARING ORDER OF COURT  
DV: AGENCY SJ-04313- -UNKNOWN  
CHILD STATUS I-SET -NBA TW Y  
APO  
VIOLATION DATE 09/01/2010

## NEXT APPEARANCE

10-29-12<sup>830</sup> D24 MTC > BAS

☐ Defendant Present ☒ Not Present ☒ Atty Present AIR AD / PD / IDO / Special App

☐ Arr'd ☐ Adv ☐ Wav ☐ Amend Comp/Info ☐ Arr ☐ Plea ☐ IDC ☐ PTC ☐ Prob / Sent ☐ Interpreter ☐ Sworn

☐ PC977 ☐ Filed ☐ On File ☐ Repr. Adv / Wav ☐ Bail / OR / SORP ☐ Rect Dr Rpt ☐ FAR / ERC ☐ Bail Apply ☐ Balance Exonerated

☐ NG ☐ Entered by CRT ☐ NGBRI / Adv ☐ PSet ☐ Prelim. ☐ Readiness ☐ S / B MTC ☐ Bail Exonerated ☐ Forfeited ☐ Bond #

☐ Denies Priors / Allegations / Enhancements / Refusal ☐ Further ☐ Jury ☐ CT ☐ Peo / Def Wav / Jury ☐ Reassumption Filed ☐ Forfeiture Set Aside ☐ Bail Rein

☐ TW ☐ TNW ☐ TW / WD ☐ TW Sentence ☐ Ref / Appt PD / ADO / IDO ☐ Con Decl ☐ Adm A / F ☐ APO / DADS / Prop 36 ☐ P36 Re-Assmt ☐ SORP / OR ☐ Revoked ☐ Reinstated ☐ May Post & Forfeit

☐ Relieved ☐ Appt'd ☐ Crim Proc Susp ☐ Rein ☐ Status Hrg ☐ BW Ordered \$ ☐ Stayed ☐ To Issue

☐ Hrg on Motion ☐ Doubt Decl Pursuant PC 1368 ☐ Subm on Report ☐ Found ☐ No Cite Release / SCIT ☐ No Request ☐ Cash Only

☐ Granted ☐ Denied ☐ Submitted ☐ Off. Gal ☐ Max Term ☐ Committed ☐ BW Set Aside ☐ Recalled ☐ Filed ☐ Remain Out ☐ NWF

☐ Stip to Comm ☐ Drs. Appointed ☐ Prelim Wav ☐ Certified to General Jurisdiction ☐ MDA / COM Amended to ☐ Proof of:

☐ Amended to ☐ (M) VC12500(a) / VC23103(a) ☐ Pur VC23103.5 ☐ DA Stmt Filed

PLEA Conditions: ☐ None ☐ No State Prison ☐ PC17 after 1 Yr Prob ☐ Includes VOP

☐ Jail / Prison Term of ☐ Dismissal / Striking ☐ Add to Cal ☐ Vacate pending date

☐ Adv Max Pen / Parole / Prob / Immig / Appeal ☐ Reg HS11590/PC290/PC457.1/PC186.30 ☐ FFS ☐ Fines/Fees ☐ PC29800/29805/30305/666/VC14607.8

☐ Wav Right to ☐ Counsel ☐ Court / Jury Trial ☐ Subpoena / Confront / Examine Witnesses ☐ Self-incrimination ☐ Written Waiver filed ☐ Plea / Absentia filed

☐ COP ☐ GUILTY ☐ NOLO CONTENDERE to charges & admits enhancements / allegations / priors ☐ PC17 ☐ Arbuckle ☐ Factual Basis found ☐ Findings stated

☐ Prop 36 Granted / Unamenable / Refused / Term ☐ DEJ Eligibility Filed ☐ DEJ Granted / Rein / Term ☐ Fee \$ ☐ Guilty Plea Renderec

☐ Waives Referral ☐ APO Full Rpt ☐ CR110 issued ☐ Fines/Fees Pay to: ☐ DOR ☐ Traffic ☐ Court ☐ Today ☐ Audit #

☐ Sent Suspended ☐ PROBATION DENIED. COUNT \$ + PA \$ ☐ Purs HS11350d

PROBATION ☐ Execution ☐ Imposition of sentence suspended for probation period COUNT \$ + PA \$ ☐ PC290.3

☐ COURT ☐ FORMAL PROBATION GRANTED for Days / Mos / Yrs AIDS / CPP \$ + PA \$ ☐ SORP

☐ Report to APO within Days ☐ Terminated ☐ Upon Release DPF \$ + PA \$ ☐ EMAT \$

☐ Perform Hrs Volunteer Work as directed PO / SAP ☐ In lieu of fine/Jail LAB \$ + PA \$

☐ Not drive w/o valid DL & Ins ☐ Adv VC23600 ☐ HTO ☐ Re-refer DRF / RF \$ Add'l RF \$ ☐ Susp'd PC1202.44/

☐ MOP ☐ FOP ☐ 12 hrs ☐ 3 mos ☐ 9 mos ☐ Enroll within days AEF \$ ☐ Original Fine \$

☐ DL Susp / Restr'd / Rvk'd for ☐ IID Not/Ordered / Rmv'd Term Yrs SECA/COPA \$ ☐ CTS PC2900.5 \$

☐ No contact with victim or family / co-defts unless appr by APO ☐ PC1202.05 ICMF \$ ☐ TOTAL DUE \$

☐ DVPO issued / mod / term'd Exp ☐ Victim Present ICIN \$ ☐ Payments Granted / Modified

☐ No Contact ☐ Peaceful Contact ☐ DSA thru APO / DOR / CRT ☐ Filed AR \$ ☐ / Mo beginning

☐ Not own/possess deadly weapons ☐ Destroy/return weapon SHELTER \$ ☐ FINE STAYED

☐ Stay away from DV \$ ☐ Committed @ \$ /day ☐ May Pay Out

☐ Submit Search/Testing ☐ Educ/Voc Trng/Empl ☐ No alcohol / drugs or where sold ATTY \$ ☐ Consec/Conc to

☐ Substance Abuse, Psych, Theft, Anger Mgmt, DV, Parenting cnsl / prgm ASF\$25/CPF\$10 \$ ☐ Fine / Fees ☐ Deemed Satisfied ☐ Commuted

☐ PC296 (DNA) ☐ PC1202.1 HIV Test / Education P/INVEST \$ ☐ P/SUP \$ ☐ /Mo ☐ Waived

VOP: ☐ Wav ☐ Arr'd ☐ Admits/Denies Viol ☐ Court Finds VOP / No VOP CJAF \$129.75/\$259.50 \$ ☐ Add'l Fees Waived

Prob Rein / Mod / Term'd / Revoked / Remains Revoked / Ext to ☐ SECA, ICMF, ICIN, CJAF, P/INVEST, PSUP FEES NOT COND. OF PROB

☐ Original Terms & Conditions Except as Amended herein ☐ Restit ☐ Gen \$ ☐ to

☐ Co-terminous with ☐ No Further Penalties / Reviews ☐ As determined by APO/Court ☐ Referred to VWAC ☐ Collect Civilly

Other: Mr. Schumb presents argument re: SJ mere news mtn to unseal docs in C1236212

JAIL/PRISON ☐ See Attach'm't Pg ☐ CDCR/Parole collect restit from Def's earnings ☐ Blended Sentence ☐ County Jail

Count F/M Violation Prison Term / Yrs Enhancement / Priors Yrs / Std / Strkn HRS / DAYS / MOS

Per crt, the probability for a fair trial will not be impaired as a result of

\* Court's Ruling re: SJ mere news mtn to unseal docs in C1236212.

Enhancement Yrs/S Enhancement Yrs/S Enhancement Yrs/S Enhancement Yrs/S Enhancement Yrs/S Total

Writ by Mr. Schumb filed in case # 1-12-CV-23106 is denied rel. 3 docs of

CTS: ☐ ACT+ ☐ 4019 ☐ 1/2 ☐ 1/4 ☐ PC2933.1 ☐ Total Total term Att fix probation

☐ Straight time ☐ In Camp ☐ WWP ☐ PC1209 Fees ☐ Waived ☐ Court Rec ☐ All / Except ☐ EMP/PS/ERP/DRP/Co Parole/NP ☐ Consec ☐ Conc to 659

☐ Sent Deemed Srv'd ☐ Rpt to Parole/Prob w/in ☐ Adv/ORD ☐ Yrs/Mos Parole/MS/PRCS/Appeal ☐ Consec ☐ Conc to 659

☐ Bal CJ Susp ☐ All but ☐ Hrs/Days/Mos ☐ On Cond Complete Residential Treatment Prgm ☐ Serve Consec MO/TU/WE/TH/FR/SA/SU 659

☐ Pre-process ☐ AM/PM ☐ Stay / Surrender / Transport to ☐ @ ☐ AM/PM or Sooner

☒ REMANDED-BAIL \$ ☐ REMAIN AS SET ☐ NO BAIL ☐ COMMITTED ☐ RELEASED ☐ OR ☐ SORP ☐ JAC PHONE ASSMT ☐ P36

☐ AS COND OF SORP ☐ BAIL INCREASED / REDUCED ☐ TO PRGM AS REC BY JAC DOC TO ARRANGE TRANSPORT UPON AVAIL BED



12 SUPERIOR COURT  
190 W. HEDDING ST  
SAN JOSE, CA 95110  
PEOPLE VS. CRAIG RICHARD CHANDLER  
LKA. 1361 N SAN PEDRO ST  
SAN JOSE, CA 95110  
JUDGE HON. DIANE NORTHWAY  
REPORTER K. MCCARTHY  
DEF. ATTY. MADDEN, BRIAN (G)  
CHARGES F(001)PC288(A)  
F(003)PC288(A)  
F(005)PC288(A)

CASE NO. C1223754  
CEN 12001535  
DATE 10/29/2012 8:30 AM DEPT. 24  
10/25/1976 CAB3721090 CDY BK:Y  
CLERK C. GUERRA EBK966 M  
HEARING MASTER TRIAL CALENDAR  
AGENCY SJ-04313- UNKNOWN  
CHILD: STATUS I-SET -NBA TW Y  
DAR. MENDOZA APO  
VIOLATION DATE 09/01/2010

## NEXT APPEARANCE

12-3-12 830 D24  
AIR by Reason

☐ Defendant Present ☒ Not Present ☒ Atty Present ☐ AD / PD / IDO / Special App

☐ Arr'd ☐ Adv ☐ Wav ☐ Amend Comp/Info ☐ Arr ☐ Plea ☐ IDC ☐ PTC ☐ Prob / Sent ☐ Interpreter ☐ Sworn

☐ PC977 ☐ Filed ☐ On File ☐ Repr. Adv / Wav ☐ Bail/ OR/ SORP ☐ Rect Dr Rpt ☐ FAR/ ERC ☐ Bail Apply ☐ Balance Exonerated

☐ NG ☐ Entered by CRT ☐ NGBRI / Adv ☐ PSet ☐ Prelim ☐ Readiness ☒ S+B MTC ☐ Bail Exonerated ☐ Forfeited ☐ Bond #

☐ Denies Priors/ Allegations/ Enhancements/ Refusal ☐ Further ☐ Jury ☐ CT ☐ Peo / Def Wav Jury ☐ Reassumption Filed ☐ Forfeiture Set Aside ☐ Bail Rein

☐ TW ☐ TNW ☐ TW / WD ☐ TW Sentence ☐ Ref'd ☐ \$ ☐ Costs Within 30 Days to Court

☐ Ref / Appt PD / ADO / IDO ☐ Con Decl ☐ Adm A / F ☐ APO / DADS / Prop 36 ☐ P36 Re-Assmt ☐ SORP / OR ☐ Revoked ☐ Reinstated ☐ May Post & Forfeit

☐ Relieved ☐ Appt'd ☐ Crim Proc Susp ☐ Rein ☐ Status Hrg ☐ BW Ordered \$ ☐ Stayed ☐ To Issue

☐ Hrg on Motion ☐ Doubt Decl Pursuant PC 1368 ☐ No Cite Release/SCIT ☐ No Request ☐ Cash Only

☐ Granted ☐ Denied ☐ Submitted ☐ Off Cal ☐ Subm on Report ☐ Found ☐ BW Set Aside ☐ Recalled ☐ Filed ☐ Remain Out ☐ NWF

☐ Stip to Comm ☐ Drs. Appointed ☐ Max Term ☐ Committed ☐ Proof of

☐ Prelim Wav ☐ Certified to General Jurisdiction ☐ MDA / COM Amended to

☐ Amended to (M) VC12500(a) / VC23103(a) ☐ Pur VC23103.5 ☐ DA Stmt Filed

PLEA Conditions: ☐ None ☐ No State Prison ☐ PC17 after 1 Yr Prob ☐ Includes VOP

☐ Jail / Prison Term of ☐ Add to Cal ☐ Vacate pending date

☐ Dismissal / Striking ☐ Subm time of Sent ☐ Harvey Stip

☐ Adv Max Pen / Parole / Prob / Immig / Appeal ☐ Reg HS11590/PC290/PC457.1/PC186.30 ☐ FSF ☐ Fines/Fees ☐ PC29800/29805/30305/666/VC14607.8

☐ Wav Right to ☐ Counsel ☐ Court / Jury Trial ☐ Subpoena / Confront / Examine Witnesses ☐ Self-Incrimination ☐ Written Waiver filed ☐ Plea / Absentia filed

☐ COP ☐ GUILTY ☐ NOLO CONTENDERE to charges & admits enhancements / allegations / priors ☐ PC17 ☐ Arbuckle ☐ Factual Basis found ☐ Findings stated

☐ Prop 36 Granted / Unamenable / Refused / Term ☐ DEJ Eligibility Filed ☐ DEJ Granted / Rein / Term ☐ Fee \$ ☐ Guilty Plea Renderec

☐ Waives Referral ☐ APO Full Rpt ☐ CR110 issued ☐ Fines/Fees Pay to: ☐ DOR ☐ Traffic ☐ Court ☐ Today ☐ Audit #

☐ Sent Suspended ☐ PROBATION DENIED ☐ COUNT \$ ☐ + PA \$ ☐ Purs HS11350d

PROBATION ☐ Execution ☐ Imposition of sentence suspended for probation period ☐ COUNT \$ ☐ + PA \$ ☐ PC290.3

☐ COURT ☐ FORMAL PROBATION GRANTED for ☐ Days / Mos / Yrs ☐ AIDS / CPP \$ ☐ + PA \$ ☐ SORP

☐ Report to APO within ☐ Days ☐ Terminated ☐ Upon Release ☐ DPF \$ ☐ + PA \$ ☐ EMAT \$

☐ Perform ☐ Hrs Volunteer Work as directed PO / SAP ☐ In lieu of fine/Jail ☐ LAB \$ ☐ + PA \$

☐ Not drive w/o valid DL & Ins ☐ Adv VC23600 ☐ HTO ☐ Re-refer ☐ DRF / RF \$ ☐ Add'l RF \$ ☐ Susp'd PC1202.44/

☐ MOP ☐ FOP ☐ 12 hrs ☐ 3 mos ☐ 9 mos ☐ Enroll within ☐ days ☐ AEF \$ ☐ Original Fine \$

☐ DL Susp/ Restr'd/ Rvk'd for ☐ IID Not/Ordered/ Rmv'd Term ☐ Yrs ☐ SECA/COPA \$ ☐ CTS PC2900.5 \$

☐ No contact with victim or family / co-defs unless appr by APO ☐ PC1202.05 ☐ ICMF \$ ☐ TOTAL DUE \$

☐ DVPO issued / mod / term'd Exp ☐ Victim Present ☐ ICIN \$ ☐ Payments Granted / Modified

☐ No Contact ☐ Peaceful Contact ☐ DSA thru APO / DOR / CRT ☐ Filed ☐ AR \$ ☐ / Mo beginning

☐ Not own/possess deadly weapons ☐ Destroy/return weapon ☐ SHELTER \$ ☐ FINE STAYED

☐ Stay away from ☐ DV \$ ☐ Committed @ \$ /day ☐ May Pay Out

☐ Submit Search/Testing ☐ Educ/Voc Trng/Empl ☐ No alcohol / drugs or where sold ☐ ATTY \$ ☐ Consec/Conc to

☐ Substance Abuse, Psych, Theft, Anger Mgmt, DV, Parenting cns / prgm ☐ ASF\$25/CPF\$10 \$ ☐ Fine / Fees ☐ Deemed Satisfied ☐ Commuted

☐ PC296 (DNA) ☐ PC1202.1 HIV Test / Education ☐ P/INVEST \$ ☐ P/SUP \$ ☐ /Mo ☐ Waived

VOP: ☐ Wav ☐ Arr'd ☐ Admits/Denies Viol ☐ Court Fines VOP No VOP ☐ CJAF \$129.75/\$259.50 \$ ☐ Add'l Fees Waived

☐ Prob Rein / Mod / Term'd / Revoked / Remains Revoked / Exp'd ☐ SECA, ICMF, ICIN, CJAF, PINVEST, PSUP FEES NOT COND. OF PROB

☐ Original Terms & Conditions Except as Amended herein ☐ Restit ☐ Gen \$ ☐ to

☐ Co-terminous with ☐ No further Penalties / Reviews ☐ As determined by APO/Court ☐ Referred to VWAC ☐ Collect Civilly

Other: ☐ As determined by APO/Court ☐ Referred to VWAC ☐ Collect Civilly

JAIL/PRISON. ☐ See Attachm't for details ☐ Parole collect resit from earnings ☐ Blended Sentence ☐ County Jail

Count F/M Violation Prison Term / Yrs Enhancement / Priors Yrs / Std / Strkn HRS / DAYS / MOS

DA witnesses Rogelio & Maria Doe

ordered to be present at 12-3-12 MTC

Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Total

CTS = ACT + ☐ 4019 ☐ 1/2 ☐ 1/3 ☐ PC2933.1 ☐ Total Total term ☐ CDCR / PC 1170h

☐ Straight time ☐ In Camp ☐ WWP ☐ PC1209 Fees ☐ Waived ☐ Court Rec ☐ All / Except ☐ EMP/PSP/ERP/DRP/Co Parole/NP

☐ Sent Deemed Srv'd ☐ Rpt to Parole/Prob w/in ☐ Adv/ORD ☐ Yrs/Mos Parole/MS/PRCS/Appeal ☐ Consec ☐ Conc to

☐ Bal CJ Susp ☐ All but ☐ Hrs/Days/Mos ☐ On Cond Complete Residential Treatment Prgm ☐ Serve Consec MO/TU/WE/TH/FR/SA/SU ☐ 660

☐ Pre-process ☐ AM/PM ☐ Stay / Surrender / Transport to ☐ @ ☐ AM/PM or Sooner

☒ REMANDED-BAIL \$ ☐ REMAIN AS SET ☐ NO BAIL ☐ COMMITTED ☐ RELEASED ☐ OR ☐ SORP ☐ JAC PHONE ASSMT ☐ P36

☐ AS COND OF SORP ☐ BAIL INCREASED / REDUCED ☐ TO PRGM AS REC BY JAC DOC TO ARRANGE TRANSPORT UPON AVAIL BED

17 SUPERIOR COURT  
 190 W. HEDDING ST.  
 SAN JOSE, CA 95110  
 PEOPLE VS. CRAIG RICHARD CHANDLER  
 L.K.A. 1361 N SAN PEDRO ST  
 SAN JOSE, CA 95110  
 JUDGE HON. RISE J. PICHON  
 REPORTER M.DAVIS  
 DEF. ATTY. MADDEN, BRIAN (G)  
 CHARGES F(001)PC288(A)  
 F(003)PC288(A)  
 F(005)PC288(A)

DATE 12/03/2012  
 10/25/1976  
 CLERK C. GUERRA  
 HEARING MASTER TRIAL CALENDAR  
 DV: AGENCY SJ-04313-  
 CHILD: STATUS I-SET -NBA  
 APO TW Y  
 CASE NO. C1223754  
 GEN 12001535  
 8:30 AMPT. 24  
 CAB3721090 CDY BK:1  
 EBK966 M  
 -UNKNOWN  
 VIOLATION DATE 09/01/2010

## NEXT APPEARANCE

☐ Defendant Present ☒ Not Present ☒ Atty Present ☐ AD / PD / IDO / Special App  
☐ Arr'd ☐ Adv ☐ Wav ☐ Amend Comp/Info ☐ Arr ☐ Plea ☐ IDC ☐ PTC ☐ Prob / Sent ☐ Interpreter ☐ Sworn  
☐ PC977 ☐ Filed ☐ On File ☐ Reprtr. Adv / Wav ☐ Bail/ OR/ SORP ☐ Rect Dr Rpt ☐ FAR/ ERC ☐ Bail Apply ☐ Balance Exonerated  
☐ NG ☐ Entered by CRT ☐ NGBRI / Adv ☐ PSet ☐ Prelim ☐ Readiness ☒ STB MTC ☐ Bail Exonerated ☐ Forfeited ☐ Bond #  
☐ Denies Priors/ Allegations/ Enhancements/Refusal ☐ Further ☐ Jury ☐ CT ☐ Peo / Def Wav Jury ☐ Reassumption Filed ☐ Forfeiture Set Aside ☐ Bail Rein  
☐ TW ☐ TNW ☐ TW / WD ☐ TW Sentence ☐ Refd ☐ Costs Within 30 Days to Court  
☐ Ref / Appt PD / ADO / IDO ☐ Con Decl ☐ Adm A / F ☐ APO / DADS/ Prop 36 ☐ P36 Re-Assmt ☐ SORP / OR ☐ Revoked ☐ Reinstated ☐ May Post & Forfeit  
☐ Relieved ☐ Appt'd ☐ Crim Proc Susp ☐ Rein ☐ Status Hrg ☐ BW Ordered \$ ☐ Stayed ☐ To Issue  
☐ Hrg on Motion ☐ Granted ☐ Denied ☐ Submitted ☐ Off Cal ☐ Doubt Decl Pursuant PC 1368 ☐ No Cite Release/SCIT ☐ No Request ☐ Cash Only  
☐ Stip to Comm ☐ Drs. Appointed ☐ Subm on Report ☐ Found ☐ BW Set Aside ☐ Recalled ☐ Filed ☐ Remain Out ☐ NWI  
☐ Prelim Wav ☐ Certified to General Jurisdiction ☐ MDA / COM Amended to ☐ Proof of  
☐ Amended to ☐ (M) VC12500(a) / VC23103(a) ☐ Pur VC23103.5 ☐ DA Stmt Filed  
 PLEA Conditions: ☐ None ☐ No State Prison ☐ PC17 after 1 Yr Prob ☐ Includes VOP  
☐ Jail / Prison-Term of ☐ Add to Cal ☐ Vacate pending date  
☐ Dismissal / Striking ☐ Subm time of Sent ☐ Harvey Stip  
☐ Adv Max Pen / Parole / Prob / Immig / Appeal ☐ Reg HS11590/PC290/PC457.1/PC186.30 ☐ FSF ☐ Fines/Fees ☐ PC29800/29805/30305/666/VC14607.8  
☐ Wav Right to ☐ Counsel ☐ Court / Jury Trial ☐ Subpoena / Confront / Examine Witnesses ☐ Self-incrimination ☐ Written Waiver filed ☐ Plea / Absentia filed  
☐ COP ☐ GUILTY ☐ NOLO CONTENDERE to charges & admits enhancements / allegations / priors ☐ PC17 ☐ Arbuckle ☐ Factual Basis found ☐ Findings stated  
☐ Prop 36 Granted / Unamenable / Refused / Term ☐ DEJ Eligibility Filed ☐ DEJ Granted / Rein / Term ☐ Fee \$ ☐ Guilty Plea Rendere  
☐ Waives Referral ☐ APO Full Rpt ☐ CR110 issued ☐ Fines/Fees Pay to: ☐ DOR ☐ Traffic ☐ Court ☐ Today ☐ Audit #  
☐ Sent Suspended ☐ PROBATION DENIED ☐ COUNT \$ ☐ + PA \$ ☐ Purs HS11350d  
 PROBATION ☐ Execution ☐ Imposition of sentence suspended for probation period ☐ COUNT \$ ☐ + PA \$ ☐ PC290.3  
☐ COURT ☐ FORMAL PROBATION GRANTED for ☐ Days / Mos / Yrs ☐ AIDS / CPP \$ ☐ + PA \$ ☐ SORP  
☐ Report to APO within ☐ Days ☐ Terminated ☐ Upon Release ☐ DPF \$ ☐ + PA \$ ☐ EMAT \$  
☐ Perform ☐ Hrs Volunteer Work as directed PO / SAP ☐ in lieu of fine/Jail ☐ LAB \$ ☐ + PA \$  
☐ Not drive w/o valid DL & Ins ☐ Adv VC23600 ☐ HTO ☐ Re-refer ☐ DRF / RF \$ ☐ Add'l RF \$ ☐ Susp'd PC1202.44/  
☐ MOP ☐ FOP ☐ 12 hrs ☐ 3 mos ☐ 9 mos ☐ Enroll within ☐ days ☐ AEF \$ ☐ Original Fine \$  
☐ DL Susp/ Restr'd/ Rvk'd for ☐ IID Not/Ordered/ Rmv'd Term ☐ Yrs ☐ SECA/COPA \$ ☐ CTS PC2900.5 \$  
☐ No contact with victim or family / co-defts unless appr by APO ☐ PC1202.05 ☐ ICMF \$ ☐ TOTAL DUE \$  
☐ DVPO issued / mod /term'd Exp ☐ Victim Present ☐ ICIN \$ ☐ Payments Granted / Modified  
☐ No Contact ☐ Peaceful Contact ☐ DSA thru APO / DOR / CRT ☐ Filed ☐ AR \$ ☐ \$ / Mo beginning  
☐ Not own/possess deadly weapons ☐ Destroy/return weapon ☐ SHELTER \$ ☐ FINE STAYED  
☐ Stay away from ☐ DV \$ ☐ Committed @ \$ /day ☐ May Pay Out  
☐ Submit Search/Testing ☐ Educ/Voc Trng/Empl ☐ No alcohol / drugs or where sold ☐ ATTY \$ ☐ Consec/Conc to  
☐ Substance Abuse, Psych, Theft, Anger Mgmt, DV, Parenting cnsl / prgm ☐ ASF\$25/CPF\$10 \$ ☐ Fine / Fees ☐ Deemed Satisfied ☐ Commuted  
☐ PC296 (DNA) ☐ PC1202.1 HIV Test / Education ☐ P/INVEST \$ ☐ P/SUP \$ ☐ /Mo ☐ Waived  
☐ VOP: ☐ Wav ☐ Arr'd ☐ Admits/Denies Viol ☐ Court Finds VOP / No VOP ☐ CJAF \$129.75/\$259.50 \$ ☐ Add'l Fees Waived  
☐ Prob Rein / Mod / Term'd / Revoked / Remains Revoked / Ext to ☐ SECA, ICMF, ICIN, CJAF, PINVEST, PSUP FEES NOT COND. OF PROB  
☐ Original Terms & Conditions Except as Amended herein ☐ Restit ☐ Gen \$ ☐ to  
☐ Co-terminous with ☐ No Further Penalties / Reviews ☐ As determined by APO/Court ☐ Referred to VWAC ☐ Collect Civilly  
 Other:

JAIL/PRISON		See Attachm't Pg		CDCR/Parole collect restit from Def's earnings		Blended Sentence		County Jail	
Count	F/M	Violation	Prison Term / Yrs	Enhancement / Priors	Yrs / Styd / Strkn	HRS / DAYS / MOS			

Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Total

CTS = ACT + ☐ 4019 ☐ 1/2 ☐ 1/3 ☐ PC2933.1 ☐ Total ☐ Total term ☐ CDCR / PC 1170h  
☐ Straight time ☐ In Camp ☐ WWP ☐ PC1209 Fees ☐ Waived ☐ Court Rec ☐ All / Except ☐ EMP/PSP/ERP/DRP/Co Parole/NP  
☐ Sent Deemed Srv'd ☐ Rpt to Parole/Prob w/in ☐ Adv/ORD ☐ Yrs/Mos Parole/MS/PRCS/Appeal ☐ Consec ☐ Conc to ☐ 661  
☐ Bal CJ Susp ☐ All but ☐ Hrs/Days/Mos ☐ On Cond Complete Residential Treatment Prgm ☐ Serve Consec MOTU/WE/TH/FR/SA/SU  
☐ Pre-process ☐ AM/PM ☐ Stay / Surrender / Transport to ☐ @ ☐ AM/PM or Sooner  
☒ REMANDED-BAIL \$ ☐ REMAIN AS SET ☐ NO BAIL ☐ COMMITTED ☐ RELEASED ☐ OR ☐ SORP ☐ JAC PHONE ASSMT ☐ P36  
☐ AS COND OF SORP ☐ BAIL INCREASED / REDUCED ☐ TO PRGM AS REC BY JAC DOC TO ARRANGE TRANSPORT UPON AVAIL BED

L25 SUPERIOR COURT  
 190 W. HEDDING ST.  
 SAN JOSE, CA 95110  
 PEOPLE VS. CRAIG RICHARD CHANDLER  
 LKA: 1361 N SAN PEDRO ST  
 SAN JOSE, CA 95110  
 JUDGE HON. RISE J. PICHON  
 REPORTER M. DAVIS  
 DEF. ATTY. MADDEN, BRIAN (G)  
 CHARGES F(001)PC288(A)  
 F(003)PC288(A)  
 F(005)PC288(A)

DATE 01/22/2013 8:30 ADEPT. 24  
 10/25/1976 CAB3721090 CDY BK:1  
 CLERK C. GUERRA  
 HEARING MASTER TRIAL CALENDAR  
 DV: AGENCY SJ-04313-  
 CHILD: STATUS I-SET -NBA  
 APO TW Y  
 VIOLATION DATE 09/01/2010

## NEXT APPEARANCE

3-25-13 830 D24  
☐ Defendant Present ☒ Not Present ☒ Atty Present ☒ AD / PD / IDO / Special App  
☐ Arr'd ☐ Adv ☐ Arr Wav ☐ Amend Comp/Info ☐ Arr. ☐ Plea ☐ IDC ☐ PTC ☐ Prob / Sent ☐ Interpreter ☐ Sworn  
☐ PC977 ☐ Filed ☐ On File ☐ Repr. Adv / Wav ☐ Bail / OR / SORP ☐ Rect Dr Rpt ☐ FAR / ERC ☐ Bail Apply ☐ Balance Exonerated  
☐ NG ☐ Entered by CRT ☐ NGBRI / Adv ☐ PSet ☐ Prelim ☐ Readiness ☐ S / S-MTC ☐ Bail Exonerated ☐ Forfeited ☐ Bond #  
☐ Denies Prior/ Allegations/ Enhancements/ Refusal ☐ Further ☐ Jury ☐ CT ☐ Pec / Def Wav Jury ☐ Reassumption Filed ☐ Forfeiture Set Aside ☐ Bail Rein  
☐ TW ☐ TNW ☐ TW / WD ☐ TW Sentence ☐ Ref'd ☐ \$ ☐ Costs Within 30 Days to Court  
☐ Ref / Appt PD / ADO / IDO ☐ Con Decl ☐ Adm A / F ☐ APO / DADS / Prop 36 ☐ P36 Re-Assmt ☐ SORP / OR ☐ Revoked ☐ Reinstated ☐ May Post & Forfeit  
☐ Relieved ☐ Appt'd ☐ Crim Proc Susp ☐ Rejn ☐ Status Hrg ☐ BW Ordered ☐ Stayed ☐ To Issue  
☐ Hrg on Motion ☐ Granted ☐ Denied ☐ Submitted ☐ Off Cal ☐ Doubt Decl Pursuant PC 1368 ☐ No Cite Release/SCIT ☐ No Request ☐ Cash Only  
☐ Stip to Comm ☐ Appointed ☐ Subm on Report ☐ Found ☐ BW Set Aside ☐ Recalled ☐ Filed ☐ Remain Out ☐ NWR  
☐ Prelim Wav ☐ Certified to General Jurisdiction ☐ MDA / COM Amended to ☐ Proof of ☐

PLEA Conditions: ☐ None ☐ No State Prison ☐ PC17 after 1 Yr Prob ☐ Includes VOP  
☐ Jail / Prison Term of ☐ Add to Cal ☐ Vacate pending date  
☐ Dismissal / Striking ☐ Subm time of Sent ☐ Harvey Stip  
☐ Adv Max Pen / Parole / Prob / Immig / Appeal ☐ Reg HS11590/PC290/PC457.1/PC186.30 ☐ FSF ☐ Fines/Fees ☐ PC29800/29805/30305/666/VC14607.8  
☐ Wav Right to ☐ Counsel ☐ Court / Jury Trial ☐ Subpoena / Confront / Examine Witnesses ☐ Self-incrimination ☐ Written Waiver filed ☐ Plea / Absentia filed  
☐ COP ☐ GUILTY ☐ NOLO CONTENDERE to charges & admits enhancements / allegations / priors ☐ PC17 ☐ Arbuckle ☐ Factual Basis found ☐ Findings stated  
☐ Prop 36 Granted / Unamenable / Refused / Term ☐ DEJ Eligibility Filed ☐ DEJ Granted / Rein / Term Fee \$ ☐ Guilty/Plea Rendered  
☐ Waives Referral ☐ APO Full Rpt ☐ CR110 issued ☐ Fines/Fees Pay to: ☐ DOR ☐ Traffic ☐ Court ☐ Today ☐ Audit #  
☐ Sent Suspended ☐ PROBATION DENIED ☐ COUNT ☐ PA \$ ☐ Purs HS11350d  
 PROBATION ☐ Execution ☐ Imposition of sentence suspended for probation period ☐ COURT ☐ FORMAL PROBATION GRANTED for ☐ Days / Mos / Yrs  
☐ Report to APO within ☐ Days ☐ Terminated ☐ Upon Release  
☐ Perform ☐ Hrs Volunteer Work as directed PO / SAP ☐ in lieu of fine/Jail  
☐ Not drive w/o valid DL & Ins ☐ Adv VC23600 ☐ HTO ☐ Re-refer  
☐ MOP ☐ FOP ☐ 12 hrs ☐ 3 mos ☐ 9 mos ☐ Enroll within ☐ days  
☐ DL Susp/ Restr'd/ Rv'd for ☐ IID Not/Ordered/ Rm'd Term ☐ Yrs  
☐ No contact with victim or family / co-defts unless appr by APO ☐ PC1202.05  
☐ DVPO issued / mod/term'd Exp ☐ Victim Present  
☐ No Contact ☐ Peaceful Contact ☐ DSA thru APO / DOR / CRT ☐ Filed  
☐ Not own/possess deadly weapons ☐ Destroy/return Weapon  
☐ Stay away from  
☐ Submit Search/Testing ☐ Educ/Voc Trng/Empl ☐ No alcohol / drugs or where sold  
☐ Substance Abuse, Psych, Theft, Anger Mgmt, DV, Parenting cnsi / prgm  
☐ PC296 (DNA) ☐ PC1202.1 HIV Test / Education  
 VOP: ☐ Wav ☐ Arr'd ☐ Admits/Denies Viol ☐ Court Finds VOP / No VOP  
 Prob Rein / Mod / Term'd / Revoked / Remains Revoked / Ext to  
☐ Original Terms & Conditions Except as Amended herein  
☐ Co-terminous with ☐ No Further Penalties / Reviews  
 Other:

JAIL/PRISON ☐ See Attachment Pg ☐ CDCR/Parole collect reit from Def's earnings ☐ Blended Sentence ☐ County Jail  
 Count F/M Violation Prison Term / Yrs Enhancement / Priors Yrs / Strk'n HRS / DAYS / MOS

Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Total

CTS = ACT + 4019 ☐ 1/2 ☐ 1/3 ☐ PC2933.1 Total Total term CDCR / PC 1170h  
☐ Straight time ☐ In Camp ☐ WWP ☐ PC1209 Fees ☐ Waived ☐ Court Rec ☐ All / Except ☐ EMP/PSP/ERP/DRP/Co Parole/NP  
☐ Sent Deemed Srv'd ☐ Rpt to: Parole/Prob w/in ☐ Adv/ORD ☐ Yrs/Mos Parole/MS/PRCS/Appeal ☐ Consec ☐ Conc to 662  
☐ Bal CJ Susp ☐ All but ☐ Hrs/Days/Mos ☐ On Cond Complete Residential Treatment Prgm ☐ Serve Consec MO/TU/WE/TH/FR/SA/SU  
☐ Pre-process ☐ AM/PM ☐ Stay / Surrender / Transport to ☐ @ ☐ AM/PM or Sooner  
☐ REMANDED-BAIL \$ ☐ REMAIN AS SET ☐ NO BAIL ☐ COMMITTED ☐ RELEASED ☐ OR ☐ SORP ☐ JAC PHONE ASSMT ☐ P36  
☐ AS COND OF SORP ☐ BAIL INCREASED / REDUCED ☐ TO PRGM AS REC BY JAC DOC TO ARRANGE TRANSPORT UPON AVAIL BED

14 SUPERIOR COURT  
190 W. HEDDING ST.  
SAN JOSE, CA 95110

PEOPLE VS. CRAIG RICHARD CHANDLER  
L.K.A. 1361 N SAN PEDRO ST  
SAN JOSE, CA 95110

JUDGE HON. RISE J. PICHON  
REPORTER M. DAVIS  
DEF. ATTY. MADDEN, BRIAN (G)  
CHARGES F(001)PC288(A)  
F(003)PC288(A)  
F(005)PC288(A)

DATE 03/25/2013 8:30 AM  
CLERK C. GUERRA  
HEARING MASTER TRIAL CALENDAR  
DV: AGENCY SJ-04313-  
CHILD: STATUS I-SET -NBA  
D.A. R. MENDOZA APO  
CASE NO. C1223754  
CEN 12001535  
A DEPT. 24  
CDY BK: EBK966 M  
-UNKNOWN  
TW Y

VIOLATION DATE  
09/01/2010

## NEXT APPEARANCE

4-22-13 880 024

☐ Defendant Present ☒ Not Present ☒ Atty Present AIR AD / PD / IDO / Special App

☐ Arr'd ☐ Adv ☒ Wav ☐ Amend Comp/Info ☐ Arr ☐ Plea ☐ IDC ☐ PTC ☐ Prob / Sent ☐ Interpreter ☐ Sworn

☐ PC977 ☐ Filed ☐ On File ☐ Repr. Adv / Wav ☐ Bail / OR / SORP ☐ Rect Of Rpt ☐ FAR / ERC ☐ Bail Apply ☐ Balance Exonerated ☐ Sworn

☐ NG ☐ Entered by CRT ☐ NGBRI / Adv ☐ PSet ☐ Prelim ☐ Readiness ☒ 57B MTC ☐ Bail Exonerated ☐ Forfeited ☐ Bond #

☐ Denies Priors/ Allegations/ Enhancements/Refusal ☐ Further ☐ Jury ☐ CT ☐ Pto / Def Wav Jury ☐ Reassumption Filed ☐ Forfeiture Set Aside ☐ Bail Rein

☐ TW ☐ TNW ☐ TW / WD ☐ TW Sentence ☐ Ref'd ☐ Costs Within 30 Days to Court

☐ Ref / Appt PD / ADO / IDO ☐ Cgn Dept ☐ Adm A / F ☐ APO / DADS / Prop 36 ☐ P36 Re-Assmt ☐ SORP / OR ☐ Revoked ☐ Reinstated ☐ May Post & Forfeit

☐ Relieved ☐ App'd ☐ Crim Proc Susp ☐ Rein ☐ Status Hrg ☐ BW Ordered ☐ Stayed ☐ To Issue

☐ Hrg on Motion ☐ Subm on Report ☐ Found ☐ Doubt Decl Pursuant PC 1358 ☐ No Cite Release/SCIT ☐ No Request ☐ Cash Only

☐ Granted ☐ Denied ☐ Submitted ☐ Off Cal ☐ Subm on Report ☐ Found ☐ BW Set Aside ☐ Recalled ☐ Filed ☐ Remain Out ☐ NW

☐ Slip to Court ☐ Pts Appointed ☐ Max Term ☐ Committed ☐ Proof of

☐ Prelim Wav ☐ Certified to General Jurisdiction ☐ MDA / COM Amended to ☐ Proof of

☐ Amended to ☐ (M) VC12500(a) / VC23103(a) ☐ Pur VC23103.5 ☐ DA Stmt Filed

PLEA Conditions: ☐ None ☐ No State Prison ☐ PC17 after 1-Yr Prob ☐ Includes VOP

☐ Jail / Prison Term of ☐ Add to Cal ☐ Vacate pending date

☐ Dismissal / Striking ☐ Subm'time of Sent ☐ Harvey Stip

☐ Adv Max Pen / Parole / Prob / Imig / Appeal ☐ Reg HS11590/PC290/PC457.1/PC166.30 ☐ FSE ☐ Fines/Fees ☐ PC29600/29805/30305/666/VC14607.8

☐ Wav Right to ☐ Counsel ☐ Court / Jury Trial ☐ Subpoena / Confront / Examine Witnesses ☐ Self-Incrimination ☐ Written Waiver filed ☐ Plea / Absentia filed

☐ COP ☐ GUILTY ☐ NOLO CONTENDERE to charges & admits enhancements / allegations / priors ☐ PC17 ☐ Arbuckle ☐ Factual Basis found ☐ Findings stated

☐ Prop 36 Granted / Unamenable / Refused / Term ☐ DEJ Eligibility Filed ☐ DEJ Granted / Rein / Term Fee \$ ☐ Guilty Plea Rendere

☐ Waives Referral ☐ APO Full Rpt ☐ CR110 issued ☐ Fines/Fees Pay to: ☐ DOR ☐ Traffic ☐ Court ☐ Today ☐ Audit #

☐ Sent Suspended ☐ PROBATION/DENIED ☐ COUNT ☐ + PA \$ ☐ Purs HS11350d

☐ COURT ☐ FORMAL PROBATION GRANTED for ☐ Days / Mos / Yrs ☐ COUNT ☐ + PA \$ ☐ PC290.3

☐ Report to APO within ☐ Days ☐ Terminated ☐ Upon Release ☐ AIDS / CPP ☐ + PA \$ ☐ SORP

☐ Perform ☐ Hrs Volunteer Work as directed PO / SAP ☐ in lieu of fine/Jail ☐ DPF ☐ + PA \$ ☐ EMAT \$

☐ Not drive w/o valid DL & Ins ☐ Adv VC23600 ☐ HTO ☐ Re-refer ☐ LAB ☐ + PA \$

☐ MOP ☐ FOP ☐ 12 hrs ☐ 3 mos ☐ 9 mos ☐ Enroll within ☐ days ☐ DRF / RF ☐ Add'l RF \$ ☐ Susp'd PC1202.44/

☐ DL Susp/ Restr'd / Rv'd for ☐ IID Not/Ordered/ Rm'd Term ☐ Yrs ☐ AEF ☐ Original Fine \$

☐ No contact with victim or family / co-defts unless appr by APO ☐ PC1202.05 ☐ SECA/COPA ☐ CTS PC2900.5 \$

☐ DVPO issued / mod / term'd Exp ☐ Victim Present ☐ ICMF ☐ TOTAL DUE \$

☐ No Contact ☐ Peaceful Contact ☐ DSA thru APO / DOR / CRT ☐ Filed ☐ ICIN ☐ Payments Granted / Modified

☐ Not own/possess deadly weapons ☐ Destroy/return Weapon ☐ AR ☐ \$ / Mo beginning

☐ Stay away from ☐ SHELTER ☐ FINE STAYED ☐ DV ☐ Committed @ \$ / day ☐ May Pay Out

☐ Submit Search/Testing ☐ Educ/Voc Trng/Empl ☐ No alcohol / drugs or where sold ☐ ATTY ☐ Consec/Conc to

☐ Substance Abuse/ Psych, Theft, Anger Mgmt, DV, Parenting chsl / prgm ☐ ASFS25/CPFS105 ☐ Fine / Fees ☐ Deemed Satisfied ☐ Commuted

☐ PC296 (DNA) ☐ PC1202.1 HIV Test / Education ☐ P/INVEST ☐ R/SUP \$ ☐ Mo ☐ Waived

VOP: ☐ Wav ☐ Arr'd ☐ Admits/Denies Viol ☐ Court Finds VOP / No VOP ☐ CJAF \$129.75/\$259.50 ☐ Add'l Fees Waived

☐ Prob Rein / Mod / Term'd / Revoked / Remains Revoked / Ext to ☐ SECA, ICMF, ICIN, CJAF, PINVEST, PSUP FEES NOT COND. OF PROB

☐ Original Terms & Conditions Except as Amended herein ☐ Restit ☐ Gen \$ ☐ to

☐ Co-terminous with ☐ No Further Penalties / Reviews ☐ As determined by APO/Court ☐ Referred to VWAC ☐ Collect Civilly

Other:

JAIL/PRISON ☐ See Attach'm't Pg ☐ CDCR/Parole collect restit from Def's earnings ☐ Blended Sentence ☐ County Jail

Count F/M Violation Prison Term/Yrs Enhancement/Yrs Priors Yrs / Std / Strkn HRS / DAYS / MOS

Def witnesses ordered to return 4-22-13 MTC - KIM TO

witnesses not present

Enhancement Yrs/S Enhancement Yrs/S Enhancement Yrs/S Enhancement Yrs/S Enhancement Yrs/S Total

Ann Dinh, Don Annie Pham, Mrs Pham-mother of Jayden Pham, Ngu Nguyen

CTS = ☐ Act ☐ 4019 ☐ 1/2 ☐ 1/4 ☐ PC2933.1 ☐ Total Total term CDCR / PC 1170h

☐ Straight time ☐ In Camp ☐ WWP ☐ PC1209 Fees ☐ Waived ☐ Court Rec ☐ All / Except ☐ EMP/PSP/ERP/DRP/Co Parole/NP

☐ Sent Deemed Srv'd ☐ Rpt to Parole/Prob w/in ☐ Adv/ORD ☐ Yrs/Mos Parole/MS/PRCS/Appeal ☐ Consec ☐ Conc to

☐ Bal CJ Susp ☐ All but ☐ Hrs/Days/Mos ☐ On Cond Complete Residential Treatment Prgm ☐ Serve Consec MO/TU/WE/TH/FR/SA/SU ☐ 663

☐ Pre-process ☐ AM/PM ☐ Stay / Surrender / Transport to ☐ @ ☐ AM/PM or Sooner

REMANDED-BAIL \$ ☐ REMAIN AS SET ☐ NO BAIL ☐ COMMITTED ☐ RELEASED ☐ OR ☐ SORP ☐ JAC PHONE ASSMT ☐ P36

☐ AS COND OF SORP ☐ BAIL INCREASED / REDUCED ☐ TO PRGM AS REC BY JAC DOC TO ARRANGE TRANSPORT UPON AVAIL BED



☐ AS COND OF SORP   ☐ BAIL INCREASED/REDUCED   ☐ TO PRGM AS REC BY JAC DOC TO ARRANGE TRANSPORT UPON AVAIL BED

JAIL/PRISON <input type="checkbox"/> See Attach'm't Pg <input type="checkbox"/> CDCR/Parole collect reitst from Def's earnings <input type="checkbox"/> Blended Sentence <input type="checkbox"/> County Jail										
Count	F/M	Violation	Prison Term / Yrs	Enhancement / Priors	Yrs / Styd / Strkn	HRS / DAYS / MOS				
Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Total

CTS = \_\_\_\_\_ ACT + \_\_\_\_\_ ☐ 4019 ☐ % ☐ % ☐ PC2933.1 \_\_\_\_\_ Total Total term \_\_\_\_\_ CDCR / PC 1170h  
☐ Straight time ☐ In Camp ☐ WWP ☐ PC1209 Fees ☐ Waived ☐ Court Rec \_\_\_\_\_ All / Except ☐ EMP/PSP/ERP/DRP/Co Parole/NP  
☐ Sent Deemed Srv'd ☐ Rpt to Parole/Prob w/in \_\_\_\_\_ ☐ Adv/ORD \_\_\_\_\_ Yrs/Mos Parole/MS/PRCS/Appeal ☐ Consec ☐ Conc to 665  
☐ Bal CJ Susp ☐ All but \_\_\_\_\_ Hrs/Days/Mos ☐ On Cond Complete Residential Treatment Prgm ☐ Serve Consec MO/TU/WE/TH/FR/SA/SU  
☐ Pre-process \_\_\_\_\_ AM/PM ☐ Stay / Surrender / Transport to \_\_\_\_\_ @ \_\_\_\_\_ AM/PM or Sooner  
☐ REMAIND-BAIL \$ \_\_\_\_\_ ☐ REMAIN AS SET ☐ NO BAIL ☐ COMMITTED ☐ RELEASED ☐ OR ☐ SORP ☐ JAC PHONE ASSM'T ☐ P36  
☐ AS COND OF SORP ☐ BAIL INCREASED / REDUCED ☐ TO PRGM AS REC BY JAC DOC TO ARRANGE TRANSPORT UPON AVAIL BED

L14 SUPERIOR COURT  
190 W. HEDDING ST  
SAN JOSE, CA 95110  
PEOPLE VS. CRAIG RICHARD CHANDLER  
L.K.A. 1361 N SAN PEDRO ST  
SAN JOSE, CA 95110

JUDGE HON. THANG NGUYEN BARRETT  
REPORTER M. DAVIS  
DEF. ATTY. MADDEN, BRIAN (G)

CHARGES F(001)PC288(A)  
F(003)PC288(A)  
F(005)PC288(A)

CASE NO. C1223754  
CEN 12001535  
DATE 05/06/2013 8:30 ADEPT. 24  
10/25/1976 CAB3721090 CDY BK:Y  
CLERK *McCarthy* EBK966 M  
HEARING MASTER TRIAL CALENDAR  
DV: AGENCY SJ-04313- UNKNOWN  
CHILD: STATUS 1 SET -NBA TW Y  
D.A. R. MENDOZA *Fluor*  
F(002)PC288(A)  
F(004)PC288(A)  
VIOLATION DATE 09/01/2010

## NEXT APPEARANCE

☒ Defendant Present ☒ Not Present ☒ Atty Present *A/R* AD / PD / IDO / Special App  
☐ Arr'd ☐ Adv ☐ Wav ☐ Amend Comp/Info ☐ Arr ☐ Plea ☐ IDC ☐ PTC ☐ Prob / Sent ☐ Interpreter ☐ Sworn  
☐ PC977 ☐ Filed ☐ On File ☐ Repr. Adv / Wav ☐ Bail/ OR/ SORP ☐ Rect Dr Rpt ☐ FAR/ERC ☐ Bail Apply ☐ Balance Exonerated  
☐ NG ☐ Entered by CRT ☐ NGBRI / Adv ☐ PSet ☐ Prelim ☐ Readiness ☒ S / B ☐ ☐ Bail Exonerated ☐ Forfeited ☐ Bond #  
☐ Denies Priors/ Allegations/ Enhancements/Refusal ☐ Further ☐ Jury ☐ CT ☐ Peo / Def Wav Jury ☐ Reassumption Filed ☐ Forfeiture Set Aside ☐ Bail Rein  
☐ TW ☐ TNW ☐ TW / WD ☐ TW Sentence ☐ Ref'd ☐ Costs Within 30 Days to Court  
☐ Ref / Appt PD / ADO / IDO ☐ Con Decl ☐ Adm A / F ☐ APO / DADS/ Prop 36 ☐ P36 Re-Assmt ☐ SORP / OR ☐ Revoked ☐ Reinstated ☐ May Post & Forfeit  
☐ Relieved ☐ Appt'd ☐ Crim Proc Susp ☐ Rein ☐ Status Hrg ☐ BW Ordered \$ ☐ Stayed ☐ To Issue  
☐ Hrg on Motion ☐ Doubt Decl Pursuant PC 1368 ☐ No Cite Release/SCIT ☐ No Request ☐ Cash Only  
☐ Granted ☐ Denied ☐ Submitted ☐ Off Cal ☐ Subm on Report ☐ Found ☐ BW Set Aside ☐ Recalled ☐ Filed ☐ Remain Out ☐ NWF  
☐ Stip to Comm ☐ Drs. Appointed ☐ Max Term ☐ Committed ☐ Proof of *Ready*  
☐ Prelim Wav ☐ Certified to General Jurisdiction ☐ MDA / COM Amended to  
☐ Amended to ☐ (M) VC12500(a) / VC23103(a) ☐ Pur VC23103.5 ☐ DA Stmt Filed

PLEA Conditions: ☐ None ☐ No State Prison ☐ PC17 after 1 Yr Prob ☐ Includes VOP

☐ Jail / Prison Term of ☐ Add to Cal ☐ Vacate pending date  
☐ Dismissal / Striking ☐ Subm time of Sent ☐ Harvey Stip  
☐ Adv Max Pen / Parole / Prob / Immig / Appeal ☐ Reg HS11590/PC290/PC457.1/PC186.30 ☐ FSF ☐ Fines/Fees ☐ PC29800/29805/30305/666/VC14607.8  
☐ Wav Right to ☐ Counsel ☐ Court / Jury Trial ☐ Subpoena / Confront / Examine Witnesses ☐ Self-incrimination ☐ Written Waiver filed ☐ Plea / Absentia filed  
☐ COP ☐ GUILTY ☐ NOLO CONTENDERE to charges & admits enhancements / allegations / priors ☐ PC17 ☐ Arbuckle ☐ Factual Basis found ☐ Findings stated  
☐ Prop 36 Granted / Unamenable / Refused / Term ☐ DEJ Eligibility Filed ☐ DEJ Granted / Rein / Term. Fee \$ ☐ Guilty Plea Rendered  
☐ Waives Referral ☐ APO Full Rpt ☐ CR110 issued ☐ Fines/Fees Pay to: ☐ DOR ☐ Traffic ☐ Court ☐ Today ☐ Audit #  
☐ Sent Suspended ☐ PROBATION DENIED ☐ COUNT \$ ☐ PA \$ ☐ Purs HS11350d  
PROBATION ☐ Execution ☐ Imposition of sentence suspended for probation period  
☐ COURT ☐ FORMAL PROBATION GRANTED for ☐ Days / Mos / Yrs  
☐ Report to APO within ☐ Days ☐ Terminated ☐ Upon Release  
☐ Perform ☐ Hrs Volunteer Work as directed PO / SAP ☐ in lieu of fine/Jail  
☐ Not drive w/o valid DL & Ins ☐ Adv VC23600 ☐ HTO ☐ Re-refer  
☐ MOP ☐ FOP ☐ 12 hrs ☐ 3 mos ☐ 9 mos ☐ Enroll within ☐ days  
☐ DL Susp/ Restr'd/ Rvk'd for ☐ IID Not/Ordered/ Rmv'd Term ☐ Yrs  
☐ No contact with victim or family / co-defts unless appr by APO ☐ PC1202.05  
☐ DVPO issued / mod / term'd Exp ☐ Victim Present  
☐ No Contact ☐ Peaceful Contact ☐ DSA thru APO / DOR / CRT ☐ Filed  
☐ Not own/possess deadly weapons ☐ Destroy/return weapon  
☐ Stay away from  
☐ Submit Search/Testing ☐ Educ/Voc Trng/Empl ☐ No alcohol / drugs or where sold  
☐ Substance Abuse, Psych, Theft, Anger Mgmt, DV, Parenting cnsl / prgm  
☐ PC296 (DNA) ☐ PC1202.1 HIV Test / Education  
VOP: ☐ Wav ☐ Arr'd ☐ Admits/Denies Viol ☐ Court Finds VOP / No VOP  
Prob Rein / Mod / Term'd / Revoked / Remains Revoked / Ext to  
☐ Original Terms & Conditions Except as Amended herein  
☐ Co-terminous with ☐ No Further Penalties / Reviews  
Other:

JAIL/PRISON ☐ See Attachm't Pg ☐ CDCR/Parole collect restit from Def's earnings ☐ Blended Sentence  
County Jail  
Count F/M Violation Prison Term / Yrs Enhancement / Priors Yrs / Std / Strkn HRS / DAYS / MOS

Count	F/M	Violation	Prison Term / Yrs	Enhancement / Priors	Yrs / Std / Strkn	HRS / DAYS / MOS

Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Total

CTS = ☐ ACT + ☐ 4019 ☐ 1/2 ☐ 1/4 ☐ PC2933.1 Total Total term ☐ CDCR / PC 1170h

☐ Straight time ☐ In Camp ☐ WWP ☐ PC1209 Fees ☐ Waived ☐ Court Rec ☐ All / Except ☐ EMP/PSP/ERP/DRP/Co Parole/NP  
☐ Sent Deemed Srv'd ☐ Rpt to Parole/Prob w/in ☐ Adv/ORD ☐ Yrs/Mos Parole/MS/PRCS/Appeal ☐ Consec ☐ Conc to *665*

☐ Bal CJ Susp ☐ All but ☐ Hrs/Days/Mos ☐ On Cond Complete Residential Treatment Prgm ☐ Serve Consec MO/TU/WE/TH/FR/SA/SU  
☐ Pre-process ☐ AM/PM ☐ Stay / Surrender / Transport to ☐ @ ☐ AM/PM or Sooner

☐ REMANDED-BAIL \$ ☐ REMAIN AS SET ☐ NO BAIL ☐ COMMITTED ☐ RELEASED ☐ OR ☐ SORP ☐ JAC PHONE ASSMT ☐ P36  
☐ AS COND OF SORP ☐ BAIL INCREASED / REDUCED ☐ TO PRGM AS REC BY JAC DOC TO ARRANGE TRANSPORT UPON AVAIL BED

1 BRIAN MADDEN, SB# 55869  
2 MADDEN & REDDING  
3 1625 The Alameda, Suite 801  
4 San Jose, California 95126  
5 Telephone: (408) 275-8100  
6 Facsimile: (408) 275-8199

7 Attorney for Defendant  
8 CRAIG RICHARD CHANDLER

**FILED**

MAY 10 2019

DAVID H. YAMASAKI  
Chief Executive Officer/Clerk  
Superior Court of CA County of Santa Clara  
BY C. STAFFORD DEPUTY

9 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 IN AND FOR THE COUNTY OF SANTA CLARA

11 THE PEOPLE OF THE STATE OF CALIFORNIA,  
12 Plaintiff,

13 vs.

14 CRAIG RICHARD CHANDLER,  
15 Defendant.

Case No. C1223754

DEFENDANT'S PROPOSED JURY  
QUESTIONNAIRE AND MEDIA  
ARTICLES IN SUPPORT OF  
DEFENDANT'S REQUEST FOR  
JURY QUESTIONNAIRE

Madden & Redding  
Attorneys at Law  
1625 The Alameda, Suite 801  
San Jose, CA 95126  
(408) 275-8100

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SANTA CLARA

THE PEOPLE OF THE STATE OF CALIFORNIA,  
Plaintiff

Case No. C1223754

vs.

CRAIG RICHARD CHANDLER,  
Defendant

As a part of your jury duty, I am asking you to complete this questionnaire. Please answer the questions completely and honestly. The information that is contained in this questionnaire becomes part of the Court's permanent record in this case.

Because this questionnaire is part of the jury selection process, you must answer the questions under the penalty of perjury. You must fill out the questionnaire by yourself and not discuss it with anyone else. If you want to make further comments concerning your answers, please use the Additional Space for Continued Answers Sheet at the back of your questionnaire.

As you answer the questions please keep in mind that there are no "right" or "wrong" answers. You are only expected to answer the questions to the best of your ability, but please be thorough. If truthful, an "I don't know" or "I can't remember" answer is acceptable. Where dates are requested, approximate dates (month and year) are satisfactory if exact dates are unknown. Complete answers are far more helpful because they shorten the time it takes to select a jury. Some of the questions may call for information of a personal nature that you may or may not want to discuss in public, i.e., in an open courtroom with the press and/or public present. In any instance where you feel your answer might be embarrassing, you may indicate this by circling the question number and writing "personal" next to the item. Please answer the question on the questionnaire. The Court will give you an opportunity to explain your request for confidentiality.

Please answer all the questions to the best of your ability so that I will not have to return the questionnaire to you to be completed. Please use a black or blue pen when writing your responses and write legibly. Do not write anything on the backside of a page. If you need to make further comments concerning your answers, please use the sheet entitled "Additional Space for Continued Answers" found at the end of the questionnaire and refer to the question number to which your continued answer applies.

From time to time there may be news coverage of cases being tried in the courthouse. The Court does not know if there will be any additional coverage of this case. In order to insure a fair trial for both sides in this case it is necessary that you avoid any contact with the news media and avoid receiving any information about this case or subjects possibly related to it that does not come directly from testimony, evidence, or instructions given in the courtroom.

*has been & expect future  
media coverage*

668

From this moment forward each of you is ordered not to read, view, listen to, or discuss any news media coverage that might have anything to do with this case: **The People of the State of California v. Craig Richard Chandler** or any subjects possibly related to it. This also means that you are not to allow anyone else to tell you about these things. Should you be exposed to any news media coverage, even by accident, you must immediately inform me of that fact.

You must not research or investigate this case or any of the parties involved. This includes internet research.

You are ordered not to discuss this case, the juror selection process, this questionnaire, or anything about what goes on inside this courtroom with anyone until I tell you differently. This includes other jurors, friends, spouses, family, roommates, co-workers, or anyone. I am aware that it can be extremely difficult not to talk about something you are involved with and which you probably consider very important; however, you must follow this admonition. The only exception allowed is that you may inform your employer and members of your family that you are a potential juror in a case, what the anticipated length of the trial is, and your scheduled appearances in court. Other than that you may not discuss anything about this case with anyone.

Again, the Court asks that each of you be as open and candid as possible. The Court appreciates your complete honesty in all these matters. Sometimes there are people who, in their effort to serve as jurors, believe that the Court or the attorneys are looking for certain answers to specific questions and respond accordingly. As a result, although they mean well, they are not totally honest and candid. The only things we are looking for are complete and honest answers.

If you believe that for some reason you may have difficulty in filling out the questionnaire, please explain that difficulty when you are given the questionnaire by court staff.

JUDGE OF THE SUPERIOR COURT



**JUROR QUESTIONNAIRE**

Juror # \_\_\_\_\_

1. Full Name: \_\_\_\_\_ Age: \_\_\_\_\_
2. Where in Santa Clara County do you live? \_\_\_\_\_
3. Where do you work (IF UNEMPLOYED OR RETIRED, WHERE DID YOU WORK)?  
\_\_\_\_\_
4. How long have you worked there? \_\_\_\_\_
5. What is your current position or title? \_\_\_\_\_
6. What are your duties or responsibilities? \_\_\_\_\_
7. What jobs have you held in the past? \_\_\_\_\_
8. Have you ever been responsible for supervising, hiring or firing employees? ☐ YES ☐ NO
9. What is your current marital status? \_\_\_\_\_  
If married, for how long? \_\_\_\_\_ How many times have you been married? \_\_\_\_\_  
If divorced, was it ☐ amicable or ☐ not amicable?
10. How far did you go in school [if college, name school(s) and any degree(s) you received]?  
\_\_\_\_\_
11. Where does your spouse, ex-spouse or the person with whom you are living work (IF UNEMPLOYED OR RETIRED, WHERE DID THIS PERSON WORK)? \_\_\_\_\_  
\_\_\_\_\_
12. Please list the sex, age and occupation for each of your:

CHILDREN (including step-, adopted and foster children)			Grandchildren		
Sex	Age	Occupation	Sex	Age	Occupation

13. Have you attended any lectures, seminars, or courses in any of the following areas:  
☐ abnormal ☐ psychology, ☐ criminal justice, ☐ human sexuality, ☐ psychology or  
☐ sociology, ☐ law enforcement, ☐ law?

14. Do you have any relatives or friends who work with adults or young people who have been physically or sexually abused? ☐ YES ☐ NO. If YES, please tell us who and what work this person did: \_\_\_\_\_
15. WITHOUT MENTIONING NAMES (other than yourself), whether or not you considered it a crime or reported it to the police, have you or anyone close to you ever been sexually assaulted or had any unwanted physical or sexual contact, including any sexual behavior that you or they believed was inappropriate? ☐ YES ☐ NO. If YES, what happened, and did you/they tell anyone about it? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
16. Has anyone ever touched or spoken to you or someone close to you, including a child, in a way that you thought was sexually inappropriate? ☐ YES ☐ NO  
If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
17. Have you or anyone you know well ever felt in danger of or been threatened with being sexually assaulted, molested or raped by another person, including a stranger, acquaintance, family member or anyone else? ☐ YES ☐ NO. If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
18. Have you or anyone close to you ever been accused of molestation or sexual assault against a child or an adult? ☐ YES ☐ NO. If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
19. Have you or anyone close to you ever been involved in a lawsuit in which there were claims for money damages due to child molestation, sexual assault or sexual harassment? ☐ YES ☐ NO. If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
20. Have you or anyone close to you ever been involved in a criminal matter involving issues of child molestation, sexual abuse or assault as a defendant, victim, witness, expert, or in any other capacity? ☐ YES ☐ NO. If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
21. Do you know any district attorneys, deputy district attorneys, criminal defense attorneys, or judges on a personal, professional or casual basis? ☐ YES ☐ NO. If YES, whom do you know and what is the nature of your relationship? \_\_\_\_\_



22. Other than what you have previously described, have you or anyone close to you ever been the victim of a crime, whether or not it was reported to law enforcement? ☐ YES ☐ NO  
If YES, what was the crime? \_\_\_\_\_. Was anyone arrested? ☐ YES ☐ NO  
If YES, were you satisfied with the outcome? ☐ YES ☐ NO. PLEASE EXPLAIN YOUR ANSWER: \_\_\_\_\_
23. Have you ever suspected that someone you know was being or had been sexually abused? ☐ YES ☐ NO. If YES, what did you do? \_\_\_\_\_
24. Do you think that individuals who claim they have been victims of child molestation are more believable than those who report being the victim of another type of crime? ☐ YES ☐ NO. If YES, please explain: \_\_\_\_\_
25. Do you believe that if more than one child claims they were molested by the same person, that person is most likely guilty? ☐ YES ☐ NO. If YES, please explain: \_\_\_\_\_
26. Have you, your children or other family members seen or discussed any media coverage of this case or any other case involving child molestation or sexual assault? ☐ YES ☐ NO  
If YES, please explain: \_\_\_\_\_
27. In criminal cases, the prosecutor must do more than prove that a defendant is probably guilty. Instead, the prosecution must prove his/her case beyond a reasonable doubt. Do you feel that the burden of proof should be lower when the charges involve child molestation? ☐ YES ☐ NO. If YES, please explain: \_\_\_\_\_
28. Is there anything about your experiences, feelings, or beliefs about child sexual abuse that would make it difficult for you to listen to the testimony and impartially weigh the evidence in a case involving these types of allegations? ☐ YES ☐ NO. If YES, please explain: \_\_\_\_\_
29. Please list any civic, political, social, professional, or religious organizations to which you belong: \_\_\_\_\_
30. What is your religious affiliation, if any? \_\_\_\_\_
31. The defendant in this case, Craig Chandler, is charged with 5 counts of child sexual abuse for sexually abusing five children who were his students at O.B. Whaley Elementary School. Is there anything about a case involving sexual abuse of a child that would affect your ability to serve as a juror? ☐ Yes ☐ No. If YES, please explain: \_\_\_\_\_

32. Under the law a person who is charged with a crime is presumed to be innocent. How difficult would it be for you to presume innocent a person who is charged with sexual assault on a minor?  
☐ Very difficult ☐ Somewhat difficult ☐ Not too difficult ☐ Not difficult at all  
Please explain: \_\_\_\_\_  
\_\_\_\_\_
33. Do you or anyone close to you work in a job where you are mandated to report sexual abuse if you suspect it has occurred? ☐ YES ☐ NO. If YES, have you ever reported anyone? ☐ YES ☐ NO
34. Have you or anyone close to you been charged with a crime? ☐ YES ☐ NO. If YES, please explain, including the person's relationship to you, the charges, and the outcome of the case: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
35. How many times have you served on a ☐ Civil Jury \_\_\_ time(s) ☐ Criminal Jury \_\_\_ time(s)  
☐ Grand Jury \_\_\_ time(s)  
1. What types of case(s)? \_\_\_\_\_  
2. What was the verdict(s)? \_\_\_\_\_  
3. Were you ever the foreperson? ☐ YES ☐ NO
36. Have you or anyone close to you worked for an attorney or law firm? ☐ YES ☐ NO. If YES, who was that and what was the name of the attorney or firm? \_\_\_\_\_
37. Do you know any prosecutors, assistant prosecutors, criminal defense attorneys, or judges on a personal, professional or casual basis? ☐ YES ☐ NO. If YES, whom do you know and what is the nature of your relationship? \_\_\_\_\_
38. Please list any newspapers, professional journals, magazines, or other periodicals to which you subscribe or regularly read? \_\_\_\_\_
39. What is your primary source of news, including internet sites? \_\_\_\_\_  
\_\_\_\_\_
40. Do you regularly visit internet chatrooms, blogs, twitter, or social network sites?  
☐ YES ☐ NO. If YES, please list: \_\_\_\_\_
41. Have you followed this case on the radio, television, newspaper, or internet media?  
☐ YES ☐ NO
42. Is there anything else that you feel is important for the parties in this case to know about you? \_\_\_\_\_  
\_\_\_\_\_

43. Is there any matter you would prefer to discuss privately with the court? ☐ YES ☐ NO.

ADDITIONAL SPACE FOR CONTINUED ANSWERS

The answers that I have given are true and correct to the best of my knowledge.

\_\_\_\_\_  
Juror Signature



**People**  
**v.**  
**Craig R. Chandler**

**MEDIA ARTICLES  
IN SUPPORT OF  
DEFENDANT'S REQUEST  
FOR JURY  
QUESTIONNAIRE**

San Jose Mercury News

A8 BAY AREA NEWS GROUP 111

FRIDAY, APRIL 12, 2013

## Editorial

# How to stop child abuse by teachers

In Antioch, a principal, special education director, assistant superintendent of human resources and special education coordinator all knew parents were complaining that a teacher was mistreating her autistic students.

Yet it was parents, not school personnel, who finally notified police. The Bay Area News Group reported last week that several families also filed a lawsuit alleging Mrs. Grant Elementary School teacher Theresa Allen-Caulboy slapped, pinched and verbally abused autistic students.

Failure to immediately report suspected abuse to authorities is a crime. In a widely publicized Santa Clara County prosecution last year, an

California needs a uniform program of precise training on the mandatory reporting law required annually for school workers.

teacher, who was accused of sexually abusing a student, was charged with child molestation. The teacher, who was accused of sexually abusing a student, was charged with child molestation. The teacher, who was accused of sexually abusing a student, was charged with child molestation.

That's why it's essential to have a uniform program of precise training on the mandatory reporting law required annually for school workers. The teacher, who was accused of sexually abusing a student, was charged with child molestation.

California needs a uniform program of precise training on the mandatory reporting law required annually for school workers. The teacher, who was accused of sexually abusing a student, was charged with child molestation.



The following is a list of the names of the persons who have been elected to the office of Mayor of the City of New York for the year 1901:

Mayor: William A. H. Wood

Aldermen:

1st District: John A. B. Wood  
 2nd District: John A. B. Wood  
 3rd District: John A. B. Wood  
 4th District: John A. B. Wood  
 5th District: John A. B. Wood  
 6th District: John A. B. Wood  
 7th District: John A. B. Wood  
 8th District: John A. B. Wood  
 9th District: John A. B. Wood  
 10th District: John A. B. Wood  
 11th District: John A. B. Wood  
 12th District: John A. B. Wood  
 13th District: John A. B. Wood  
 14th District: John A. B. Wood  
 15th District: John A. B. Wood  
 16th District: John A. B. Wood  
 17th District: John A. B. Wood  
 18th District: John A. B. Wood  
 19th District: John A. B. Wood  
 20th District: John A. B. Wood  
 21st District: John A. B. Wood  
 22nd District: John A. B. Wood  
 23rd District: John A. B. Wood  
 24th District: John A. B. Wood  
 25th District: John A. B. Wood  
 26th District: John A. B. Wood  
 27th District: John A. B. Wood  
 28th District: John A. B. Wood  
 29th District: John A. B. Wood  
 30th District: John A. B. Wood  
 31st District: John A. B. Wood  
 32nd District: John A. B. Wood  
 33rd District: John A. B. Wood  
 34th District: John A. B. Wood  
 35th District: John A. B. Wood  
 36th District: John A. B. Wood  
 37th District: John A. B. Wood  
 38th District: John A. B. Wood  
 39th District: John A. B. Wood  
 40th District: John A. B. Wood  
 41st District: John A. B. Wood  
 42nd District: John A. B. Wood  
 43rd District: John A. B. Wood  
 44th District: John A. B. Wood  
 45th District: John A. B. Wood  
 46th District: John A. B. Wood  
 47th District: John A. B. Wood  
 48th District: John A. B. Wood  
 49th District: John A. B. Wood  
 50th District: John A. B. Wood  
 51st District: John A. B. Wood  
 52nd District: John A. B. Wood  
 53rd District: John A. B. Wood  
 54th District: John A. B. Wood  
 55th District: John A. B. Wood  
 56th District: John A. B. Wood  
 57th District: John A. B. Wood  
 58th District: John A. B. Wood  
 59th District: John A. B. Wood  
 60th District: John A. B. Wood  
 61st District: John A. B. Wood  
 62nd District: John A. B. Wood  
 63rd District: John A. B. Wood  
 64th District: John A. B. Wood  
 65th District: John A. B. Wood  
 66th District: John A. B. Wood  
 67th District: John A. B. Wood  
 68th District: John A. B. Wood  
 69th District: John A. B. Wood  
 70th District: John A. B. Wood  
 71st District: John A. B. Wood  
 72nd District: John A. B. Wood  
 73rd District: John A. B. Wood  
 74th District: John A. B. Wood  
 75th District: John A. B. Wood  
 76th District: John A. B. Wood  
 77th District: John A. B. Wood  
 78th District: John A. B. Wood  
 79th District: John A. B. Wood  
 80th District: John A. B. Wood  
 81st District: John A. B. Wood  
 82nd District: John A. B. Wood  
 83rd District: John A. B. Wood  
 84th District: John A. B. Wood  
 85th District: John A. B. Wood  
 86th District: John A. B. Wood  
 87th District: John A. B. Wood  
 88th District: John A. B. Wood  
 89th District: John A. B. Wood  
 90th District: John A. B. Wood  
 91st District: John A. B. Wood  
 92nd District: John A. B. Wood  
 93rd District: John A. B. Wood  
 94th District: John A. B. Wood  
 95th District: John A. B. Wood  
 96th District: John A. B. Wood  
 97th District: John A. B. Wood  
 98th District: John A. B. Wood  
 99th District: John A. B. Wood  
 100th District: John A. B. Wood

[illegible]

Exclusive: Accused Teacher's School Ignores Title IX | NBC Bay Area

1/7/13 1:34 PM



Search

[HOME](#) | [NEWS](#) | [WGN](#) | [WEATHER](#) | [INVESTIGATIONS](#) | [SPORTS](#) | [ENTERTAINMENT](#) | [CITY](#) | [TRAVEL](#) | [CLIPS](#)

## THE INVESTIGATIVE UNIT

HOLDING THE POWERFUL ACCOUNTABLE

SEND TIPS | 888-368-8477

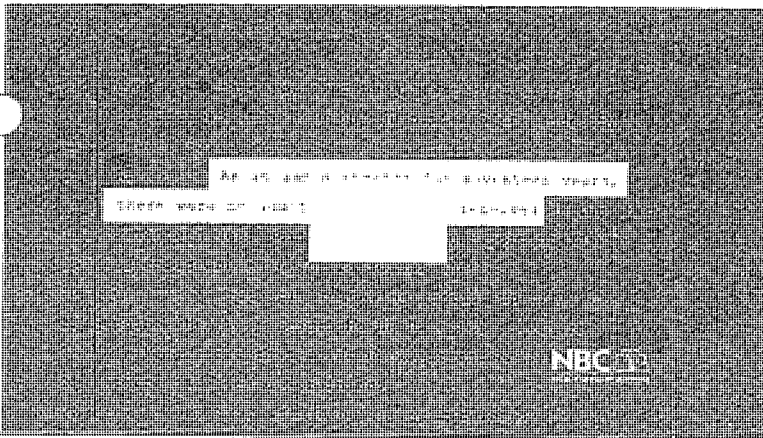
HOME &gt; INVESTIGATIONS

### Exclusive: Accused Teacher's School Ignores Title IX

As a South Bay teacher charged with sexually abusing five of his students awaits trial, the Investigative Unit exposes the school district at which he worked ignoring a federal law designed to protect students in cases like this.

By Jenna Susko, Julie Putnam and Felipe Escamilla | Monday, Jan 7, 2013 | Updated 8:47 AM PST

View Comments (0) | Email | Print 0 Tweet 0 Recommend 4 Send



As a South Bay teacher charged with sexually abusing five of his students awaits trial, the Investigative Unit exposes the school district at which he worked ignoring a federal law designed to protect students in cases like this. Jenna Susko reports. This story was first aired at 11 p.m. on Jan. 6.

advertisement

OB Whaley Elementary in Southeast San Jose sits at the center of a sexual abuse case involving one of its teachers and the Investigative Unit has uncovered the school district not complying with a federal law meant to protect students in situations just like this.

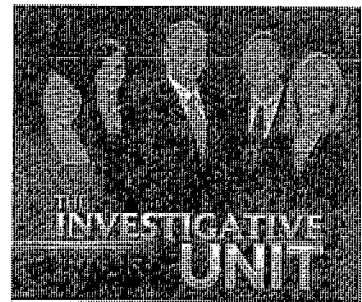
The law, Title IX, requires schools have a system in place to file sexual harassment and

FOLLOW US

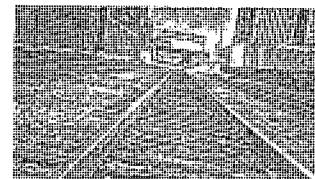
Follow

Like 4

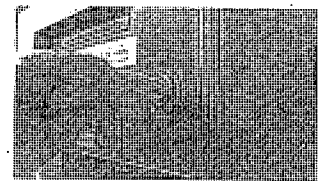
#### MEET THE TEAM



#### TOP STORIES



The Great Train Robbery



One Gas Pump Key Lets Thieves Steal Your ID

679



Exclusive: Accused Teacher's School Ignores Title IX | NBC Bay Area

1/7/13 1:34 PM

5 Foods to never eat :

Cut down a bit of stomach fat every day by never eating these 5 foods. ➔ Never eat

abuse complaints, a trained coordinator to process them and that this information be made public for staff, students and parents.

At the time of the alleged abuse, Evergreen did not have a trained Title IX coordinator or contact information published online.

"It is very difficult to describe how much damage this has done," the father of one of the alleged victims told NBC Bay Area, in an exclusive, anonymous interview.

"It's bad," the mother said through tears, her

husband placing his arm around her shoulder.

The parents, who spoke anonymously with NBC Bay Area in Spanish, describe their young daughter as a beautiful, responsible girl who loves to read and play with Disney princesses. She is also one of five OB Whaley students the Santa Clara County District Attorney's Office identified as being sexually abused by Craig Chandler.

The alleged abuse came to light when a parent contacted police.

According to these hand written notes by then-principal, Lyn Vijayendran, a 2nd grader gave an account of being blindfolded by Chandler and him putting something in her mouth while alone in a classroom as part of a "Helen Keller lesson".

Vijayendran testified in her own trial in November that she gave this information to district Human Resources Director, Carole Schmitt and was told to handle it on her own. Vijayendran did not report the allegations to police or Child Protective Services.

Schmitt then testified she had not received any sexual harassment or abuse training.

To view Schmitt's full testimony, click here.

Yet according to the district, Schmitt is the Title IX Coordinator, the individual responsible for handling all sexual harassment and abuse complaints.

The Investigative Unit also found that her contact information was not published online, as required by Title IX, so staff and parents know who to contact in these situations.

Title IX is supposed to be enforced by the Department of Education. DOE informed NBC Bay Area it does not have the resources to monitor every school district but does perform investigations when requested by the public.

Even though a jury convicted Vijayendran of failing to report, an alleged victim's attorney, Paul Matiasic, believes Evergreen should be held civilly accountable for failing to comply with Title IX.

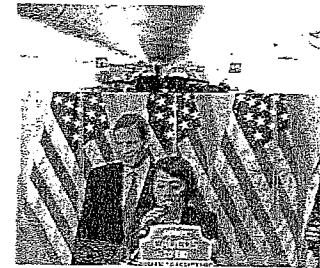
"Title IX is in place to prevent these types of occurrences," Matiasic told NBC Bay Area.

"I do firmly believe more kids were abused [at OB Whaley] by virtue of the fact that they failed to comply with Title IX."

Matiasic is representing the family in a civil suit against Chandler, Evergreen and the school's then-principal Vijayendran.

"Had they paid attention to that which they are obligated to do, we wouldn't be sitting here talking today," Matiasic said.

"If they had followed the law appropriately, none of this would have happened," South Bay attorney



Berkeley Woman Breaks Chains of Human Trafficking

FOLLOW NBCBAYAREA

680

Exclusive: Accused Teacher's School Ignores Title IX | NBC Bay Area

1/7/13 1:34 PM

Bob Allard told NBC Bay Area.

Allard is separately representing a 10-year-old alleged victim not identified by the District Attorney. This abuse allegedly occurred from 2010-2011.

"The information was conveyed to a Title IX coordinator and the appropriate action was not taken," Allard said.

Evergreen is not the first to ignore Title IX. The Investigative Unit exposed several Bay Area schools overlooking Title IX in November.

The Investigative Unit emailed more than 200 principals across the Bay Area, asking how to contact the Title IX coordinator. Less than half responded within two weeks and of those who did, most could not name the coordinator.

To view the original report, click here.

NBC Bay Area has reached out to Evergreen School District for two months to ask if the district plans to make changes to become Title IX compliant and if the coordinator will receive the necessary training. Superintendent Kathy Gomez declined NBC's interview request. Human Resources Director Carole Schmitt did not respond. The school district's attorney, Mark Davis did not answer NBC Bay Area's questions.

So the Investigative Unit met up with the Superintendent outside her office.

"I think I directed you to our attorney," Superintendent Gomez told NBC Bay Area.

"He has not answered any of our questions," Investigative Reporter Jenna Susko responded. "Why can't you answer simple questions about what your policy is and whether or not anyone has been trained on Title IX?"

Gomez directed NBC Bay Area to the attorney again and drove off.

Afterward, the attorney sent NBC Bay Area an email offering generic information about Title IX and stated that the coordinator has received training, but did not send any documentation to support that.

He also wrote:

"I do not believe the issues involving the OB Whaley situation necessarily involve Title IX issues. Rather, they involve allegations of harassment and child abuse."

"Without NBC's investigation into many Title IX issues and concerns how would we know about half of what's going on in bay area schools?" Noreen Farrell, with Equal Rights Advocates told the Investigative Unit.

ERA has also filed a request for information from Evergreen, asking for proof it's following Title IX. She is still waiting for answers.

"What I would advise a school district that has faced these horrible allegations is that they should be upfront doing everything to make sure students feel safe, parents feel confident and that members of the public feel confident," Farrell said.

"For educators to stick their heads in the sand about sexual abuse of minors and the application of Title IX is a real problem."

NBC has uncovered that since contacting the district, Evergreen's web site is now updated to include contact information for the Title IX Coordinator and a section explaining Title IX.

To view the updated web site, click here.

581

Exclusive: Accused Teacher's School Ignores Title IX | NBC Bay Area

1/7/13 1:34 PM

"I would like to say the first thing lost is trust. You lose trust in teachers, and you just don't know who to trust," the alleged victim's father told the Investigative Unit, as his wife agreed.

The parents hope their voices and their pain will inspire change.

"I would ask that they would pay attention and follow these laws because it can have a terrible effect on the life of a family, when a tragedy happens," the father said.

"I hope that this helps other school districts so they can take more responsibility and prevent such things from happening to other families."

Teacher Craig Chandler is scheduled to appear in court January 22.

If you have a tip for the Investigative Unit, email [theunit@nbcbayarea.com](mailto:theunit@nbcbayarea.com)

Follow NBC BAY AREA for the latest news, weather, and events: iPad App | iPhone App | Android App | Facebook | Twitter | Google+ | RSS | Text Alerts | Email Alerts

Posted 6 hours ago

0 Tweet 0 Recommend 4 Send

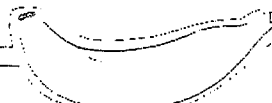
Leave Comments

Comment using...

Facebook social plugin

5 Foods you must not eat :  
Cut down a bit of stomach fat every  
day by never eating these 5 foods.

Never eat



## NEWS



INVESTIGATIONS  
Exclusive: Accused Teacher's  
School Ignores Title IX



LOCAL  
SFPD Search For Boyfriend  
After Woman Set on Fire



NATIONAL INTERNATIONAL  
Obama Nominates Hagel for  
Defense, Brennan for CIA

News

## INVESTIGATIONS



INVESTIGATIONS  
Exclusive: Accused Teacher's  
School Ignores Title IX



INVESTIGATIONS  
The Great Train Robbery



INVESTIGATIONS  
One Gas Pump Key Lets  
Thieves Steal Your ID

Investigations

## PHOTOS AND VIDEOS



POLITICS  
White House  
Photographer's Fave Photos  
of 2012



ENTERTAINMENT NEWS  
Gloves: 20 Years of  
Winning Movie Actresses



STORIES  
Sunday Showers, Turning  
Breezy

Multimedia

682

After alleged molestations, Evergreen School District riles parents with letter - San Jose Mercury News

12/11/12 10:02 AM

SIGN IN | REGISTER | NEWSLETTERS

Part of the Bay Area News Group

MercuryNews.com

Like 34k eEdition / Subscriber Services  
Mobile / Mobile Alerts / RSS

NEWS PHOTOS BUSINESS TECH SPORTS ENTERTAINMENT LIVING OPINION PUBLICATIONS MYTOWN HELP

JOBS CARS REAL ESTATE CLASSIFIED SHOPPING

Web Search by YAHOO!

San Jose, CA Now: 54°F High: 68°F Low: 48°F city or zip

today's DEALS HOLIDAY GIFT GUIDE NOB HILL

In The News: More concerns for HP | Zombie argument triggers shooting | Warriors on a roll | UC gets new logo | Rihanna-Brown spat | SolarCity IPO

Advertisement

Recommend Send 5 people recommend this. 0 Share Tweet 0

## After alleged molestations, Evergreen School District riles parents with letter

By Sharon Noguchi  
snoguchi@mercurynews.com  
Posted: 12/11/2012 06:08:13 AM PST  
Updated: 12/11/2012 08:44:45 AM PST

The Evergreen School District has sent parents a defensive letter appearing to partly excuse its response after a parent reported a teacher possibly molesting a child in his classroom.

Instead of filing a report with Child Protective Services, the district itself looked into and dismissed the allegation.

The letter also announced the district plans to enroll a sampling of students in an assault prevention program early next year.

The move comes as Evergreen teacher Craig Chandler faces trial next month on five counts of lewd and lascivious acts on a child under age 14. Lyn Vijayendran, who was principal of O.B. Whaley elementary school, was convicted last month of failing to report suspicions of child abuse.

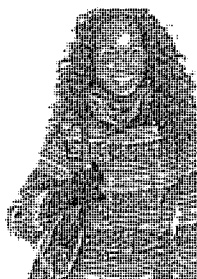
In addition, the district faces civil suits filed on behalf of two of the victims. In its letter to parents, the district announced plans to enroll children in three grade levels in child-abuse-prevention workshops offered by the YWCA of Silicon Valley. Although the letter was dated Nov. 16, parents reported receiving letters as late as Saturday.

Rather than assuage worry, the letter appears to have churned parental anger.

"The district continues to excuse what has happened," said one parent, who didn't want to be identified because she said she works closely with district leaders. "That leaves the question of who's looking out for our kids."

Evergreen board President Jeff Fischer last week said he was unaware of the letter sent by Superintendent Katherine Gomez.

Advertisement

Worthington  
colored  
military coat \$70

Because the district is being sued, Fischer and other trustees have refused to speak about the alleged molestation, the district's response to it and even plans for the assault-prevention training. Board members refer

inquiries to Gomez, who in turn refers them to the district's attorney, Mark Davis.

Davis said the main purpose of the letter was to advise parents about the workshops, known as the Child Assault Prevention Program, and to update parents about Chandler's arrest and Vijayendran's trial.

The district hired a private investigator to look into its handling of the complaint against Chandler — the parent of one of the alleged victims approached the school in October 2011, and Vijayendran's response was to transfer the student to another class. Chandler was arrested only after the parent of a second child came forth in January with a similar complaint and contacted police.

Davis said because the district is being sued, it's "not in its best interest" to release the investigator's report, to name the investigator nor to say how much the district

has spent on its investigation.

Gomez's letter to parents indicates the investigator found that when the district looked into the parent's allegations, it was hampered by Chandler who "provided a seemingly credible and convincing denial of any inappropriate activity."

But the difficulty and delicacy in sorting out allegations of child abuse is the reason that California law requires suspicions be reported to law enforcement, and not investigated by untrained school employees.

Gomez acknowledged in her letter that the district should have reported the behavior, as required by law. "The district has taken action in an effort to make sure this conduct does not occur again."

**Aesthetic & Refractive Surgery Medical Center**

The first center in the Western Region of the US to offer Precision Laser Cataract Surgery with Catalys

**(408) 903-7181**

San Jose 155 O' Connor Dr • Suite #180 A-B  
randolpham@alumni.ucsf.edu



### Breaking news

Latest from MercuryNews.com

Sunnyvale: Police investigate robbery near Caltrain station

Marissa Mayer announces Yahoo Mail redesign focused on speed, mobile

Michigan House approves anti-union right-to-work law amid protests

Daily City: All lanes open on Skyline Boulevard after cliff rescue

Livermore shoppers stunned by anonymous good Samaritans

☐ You must be logged in to Facebook to use social plugins.

Mercury News Breaking News

Most Viewed Most E-Mailed

(From the last 12 hours)

1. University of California Introduces a modern logo
2. Kawakami: Brandon Jacobs finds out what happens when you challenge...
3. Editors' Picks: Top stories on MercuryNews.com
4. NFL: New England Patriots crush Houston Texans for seventh...
5. Hicks: Rihanna and Chris Brown have weekend spat
6. Roadshow: New paving techniques help drain water off freeways

### Homecomings

[http://www.mercurynews.com/breaking-news/cj\\_22164465/after-alleged-molestations-evergreen-school-district-riles-parents](http://www.mercurynews.com/breaking-news/cj_22164465/after-alleged-molestations-evergreen-school-district-riles-parents)

Page 1 of 4

683

After alleged molestations, evergreen school District riles parents with letter – San Jose Mercury News

12/11/12 10:02 AM

And while Gomez's letter explains – without mentioning her by name – that Vijayendran was found guilty of misdemeanor failure to report, Gomez points out that "The decision was a difficult one and it took the jurors two days to reach their verdict." She also noted that jurors said later that the principal didn't cover up or "intentionally ignore a known incident of child abuse."

The police investigation reveals that Vijayendran contacted Evergreen Human Relations Director Carole Schmitt, who guided her through interviewing the parent, child and Chandler.

Another Evergreen parent, who also declined to be identified, said she's appalled that both Schmitt and Vijayendran, who was reassigned to the district office as coordinator of teacher-support programs, remain employed by Evergreen. And she believes the abuse-prevention training misses the target.

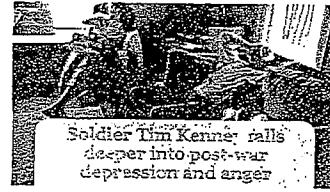
"The child did the right thing. She told her mom, and mom went to the school. It's the principal and the school that let those families down."

Contact Sharon Noguchi at 408-271-3775. Follow her at [Twitter.com/NoquchiOnK12](https://twitter.com/NoquchiOnK12)

#### For Evergreen Parents

Are you an Evergreen parent wishing to comment on Superintendent Katherine Gomez's letter about the district's response to alleged child molestation at O.B. Whaley school? E-mail reporter Sharon Noguchi at [snoguchi@mercurynews.com](mailto:snoguchi@mercurynews.com)

esd\_letter





Soldier Tim Kenner falls deeper into post-war depression and anger

[read more](#)

#### News Videos »


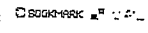



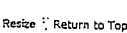
#### Recommendations

 You need to be logged into Facebook to see your friends' recommendations.

 Elizabeth Drescher: Pope Benedict's tweets---will they be ministry, marketing or something more?  
5 people recommended this.

University of California Introduces a modern logo  
6,494 people recommended this.

Facebook social plugin

 Reprint   Print  Email  Font Resize  Return to Top

#### Top Classifieds

RENTALS	JOBS	REAL ESTATE	AUTOS
PROP MGMT.			
CHOWCHILLA AREA:			
3/2.5 Beautiful Home \$459,900			
NEW Shaver Lake View Cabing in development			
<a href="#">ALL LISTINGS</a>			

Recommended for You

[http://www.mercurynews.com/breaking-news/ci\\_22164465/after-alleged-molestations-evergreen-school-district-riles-parents](http://www.mercurynews.com/breaking-news/ci_22164465/after-alleged-molestations-evergreen-school-district-riles-parents)

684

Page 2 of 4

After alleged molestations, Evergreen School District riles parents with letter - San Jose Mercury News

12/11/12 10:02 AM

• FAQ: Article commenting how-los and lips

Recommended for you

- Hicks; Rihanna and Chris Brown have weekend spat
- Hewlett-Packard stirs more concerns with...
- Marini: Lucasfilm wins appeal of pregnancy...



Marsha Seeth · James Lick High School

Carole Schmitt should have been charged as was Vijayendran. Our children depend on us to protect them!

Reply · 1 · Like · about an hour ago

Second winner of record Powerball jackpot identified as Matthew...  
(From DailyMile.com)

Powered by  
newstogram



Mary L Holman · Top Commenter · San Rafael, California

Who in the world would ignore such an issue. Children deserve better.

Reply · 1 · Like · 16 hours ago

Pannon Insurgent · Top Commenter

This is a hoolabaloo in most cases. The greedy lawyers and their dictatorship ruining America for money. People who work with students (teachers, aids, bus drivers, janitors) likely to be "accused", without doing anything inappropriate. The stupid greedy lawyers and their money-hunger stand behind this crap. It's a feminist (communist) attack on men. America needs an armed revolution again!

Reply · Like · 15 hours ago



Jesse Shatner · Top Commenter

Um, yeah. Go away

Reply · 2 · Like · 12 hours ago



Gargi Mitra Keeling · Top Commenter · VMware at VMware Inc  
agreed... "Pannon Insurgent" has issues...

Reply · Like · about an hour ago



Eric Low · Campolindo High School Alumni

You'd think they would have learned something from the Moraga School District's problems.

Reply · Like · 2 hours ago



Shannon Conway · Rocklin, California

Add a comment...

Reply · Like · 14 hours ago

Facebook social plugin

## Breaking News

Sunnyvale: Police investigate robbery near Caltrain station

Michigan House approves anti-union right-to-work law amid protests

Masked gunmen attack Egyptian protesters; tens of thousands hold rival rallies

Mali coup leaders force prime minister to resign

Famous Yellowstone wolf among seven shot

NTSB meeting on what caused Emeryville-bound Amtrak crash

Orinda: Car fire briefly stops eastbound traffic in Caldecott Tunnel

Susan Powell's family pointed to father-in-law, but police delayed

### Related Results

Walden University Online Doctoral, Master's and Bachelor's. A Higher Degree. A Higher Purpose.

The New "Skinny Pill" Stores Sold Out of New Weight Loss Wonder Pill "Miracle in a Bottle".

Mortgage Rates Hit 2.50% | One Under \$729k? You May Qualify for 2.90% APR Govt Refi Plans, Apply!

Ads by Yahoo

www.waldenu.edu

www.HealthDiscoveriesJournal.com

www.SeeRefinanceRates.com

Copyright © 2012 - San Jose Mercury News

Place an Ad | About Our Ads | Help/Contact | Site Map | Advertise | Home Delivery | Copyright | Privacy Policy and Terms of Use | About MediaNews Group | RSS | Find San Jose Jobs | Ethics Policy | About Bay Area News Group | MY YAHOO!

A MediaNews Group WEBSITE  
MediaNews Group - Bay Area News Group

685

http://www.mercurynews.com/breaking-news/ci\_22164465/after-alleged-molestations-evergreen-school-district-riles-parents

Page 3 of 4

San José Mercury News

TUESDAY, NOVEMBER 6, 2012

CHILD ADVOCATES HAIL VERDICT

## Principal guilty of failure to report abuse

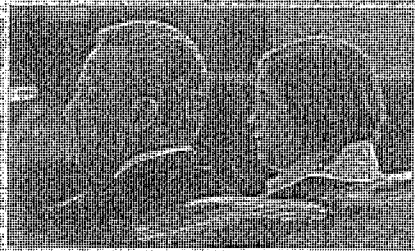
Judge: Bad judgment  
not to go to authorities  
with girl's allegations

By Tracy Kaplan

SAN JOSE — On Monday, a judge found former O.B. Whaley Elementary School principal Lyn Vijayendran guilty of an extremely rare charge of failing to report suspected child abuse to authorities, despite being told by an 8-year-old girl in vivid and explicit detail about a possible sexual

act performed not only by a teacher but the principal. A former O.B. Whaley Elementary School principal Lyn Vijayendran was only the second time in two decades that Santa Clara County prosecutors had brought such a misdemeanor charge — and the first time they'd convicted anyone. Vijayendran, 50, dabbed at her eyes with a tissue while the clerk read the guilty verdict.

She later wept when Santa Clara County Superior Court Judge John J. ...  
See PRINCIPAL, Page 3



Former O.B. Whaley Elementary principal Lyn Vijayendran, right, bears witness and her guilty verdict.



## Principal

*Continued from Page 1*

County Superior Court Judge Deborah Ryan took the unusual step of immediately sentencing her.

"I agree with the jury's verdict," Ryan told Vijayendran. "You did what you thought was right, but I do think you made a very bad judgment that day."

Vijayendran faced up to six months in jail and a \$1,000 fine. But noting the principal's spotless record, the judge sentenced her instead to two years on court probation. She also ordered her to perform 100 hours of community service, preferably by training educators to comply with California's mandated-reporter law.

The verdict came as a relief to child abuse experts, who were worried when the jury announced Friday that it was stuck after deliberating for less than six hours. The vote was stalled 8-4 in what jurors later said was in favor of conviction.

A mistrial "would have sent the wrong message," said Margaret Patros, a commissioner on the Child Abuse Council of Santa Clara County. "This verdict is important for all mandated reporters to heed. There are so many who don't take it seriously."

### No training

It was unclear Monday whether Vijayendran's school district, Evergreen Elementary, had gotten the message. The district, which has been sued by alleged victims of the teacher, Craig Chandler, hadn't trained Vijayendran or the human resources director she consulted in how to carry out their legal obli-

gation to report suspected abuse or neglect, both women testified.

In a statement late Monday, the district said it "understands that the jury in the trial of Ms. Vijayendran had a very difficult decision to make and while we are disappointed with the outcome, we respect the process and remain committed to our mission of working to

ensure that each of our students receives a high-quality education in a safe and nurturing environment. We will continue to work with our community to accomplish this."

School districts in California are technically required to provide training for educators but can avoid doing so by simply submitting a letter explaining why they didn't.

Prosecutor Alison Filo said the District Attorney's Office made the rare decision to try Vijayendran because her lack of judgment in October 2011 had devastating consequences. "Another child reported being molested in a

similar fashion by the same teacher about three months later."

Chandler was subsequently arrested in January and ultimately charged with committing lewd and lascivious acts on five children. Tests by the Santa Clara County crime lab found his semen on a classroom chair. The 35-year-old teacher, in jail pending his trial, faces a maximum sentence of 75 years to life if he is convicted.

"The bigger picture is we want mandated reporters to understand to always err on the side of caution and report, never investigate," Filo said.

The only other case in the past two decades involved allegations in 1999 that the head of Hillbrook School in

Los Gatos failed to report a bruise on the face of a student. A judge ultimately dismissed the case.

Some argue violators are rarely prosecuted because the law works as intended. Those who are supposed to report suspicions do. Others, including many child abuse experts, disagree.

### Good person

Several jurors said the panel reached consensus after listening to the court reporter read back some of the testimony.

Juror Kathy Eriksen called the case "tragic," but

said the verdict was "absolutely necessary" to ensure educators, coaches and other mandated reporters don't shirk their obligation.

The jurors all felt for Vijayendran, a relatively young principal who had consulted with the head of human resources and was told to question the teacher. But the administrator left the ultimate decision about what to do up to Vijayendran.

Juror Christina Rodriguez, who initially voted to acquit the principal, said, "There's a lot more people to be blamed for this. She's a good person. We all saw that."

In the end, the strongest evidence against the principal were her own notes from interviewing the child. The girl told the principal that Chandler blindfolded her in a room with no one else there, made her lie down on the classroom floor, told her to open her legs, touched her feet with something that felt like a tongue, inserted something gooey in her mouth and then wiggled her head around until she tasted a salty liquid. Chandler told Vijayendran that he called

the girl into the classroom to "prepare a lesson" on Helen Keller, which he had been using for years.

Juror Susan LaGaffa said the incident was obviously sexual and the teacher's explanation ludicrous.

"I think she didn't want this ugly thing to be true," LaGaffa said. "But when you have responsibility for hundreds of children, you can't afford to drop the ball."

*Staff writer Sharon Noguchi contributed to this report. Contact Tracey Kaplan at 408-278-3482. Follow her at Twitter.com/thkaplanreport.*



Eriksen



Rodriguez



LaGaffa



Sign In | Register | Newsletters

Mobile | Mobile Alerts | RSS

News Publications My Town Sports Business Entertainment Living Columns Opinion Help

☐ Site ☐ Web Search by YAHOO!

Walnut Creek, CA

In The News: [Zuckerberg privacy problem](#) | [Russia to bar U.S. adoptions](#) | [Marvell patent ruling](#) | [Gun owners' addresses put](#)

0  
Recommend  Sign Up to see what your friends recommend.

0

## Mercury News editorial: Sexual abuse in schools cries out for remedies

Mercury News Editorial

Posted: 11/06/2012 03:18:07 PM PST  
Updated: 11/06/2012 06:29:16 PM PST

Former O.B. Whaley Elementary School Principal Lyn Vijayendran was distraught on the witness stand last week. She clearly wished she had acted on the first report that teacher Craig Chandler had behaved improperly with an 8-year-old girl. Chandler was arrested months later when another child came forward, and he is charged with committing lewd and lascivious acts on five children.

"Now, looking back, I have a different lens," Vijayendran testified.

Given the number of cases of past abuse coming to light recently in South and East Bay schools, Vijayendran can't be the only one who needs a clearer focus on the legal mandate to immediately report possible abuse to the police. Districts need to examine their policies and make sure there's sufficient training on mandated reporting for all employees — teachers, human resources staff, everyone.

Professionals may prefer to err on the side of caution in casting suspicion on a colleague, but the law says to err on the side of children and speak up. Some districts make this crystal clear, but obviously not enough of them.

The outrageous nature of the Vijayendran case in San Jose's Evergreen School District prompted the Santa Clara County district attorney's office to prosecute her, and on Monday a jury convicted her of failing to report Chandler. This will ripple through school systems. At least we hope it does.

For sheer cluelessness and medieval attitudes, however

NEXT ARTICLE IN NEWS

Advertisement

**Biz Break: Wall Street whipsaws with 'fiscal cliff' discussions, Apple reveals executives' compensation**

» Continue to article...

SUNNYVALE  
VW

Sign the driver's license

Get Daily Deals

http://www.com2008times.com/opinion/ci\_21941314/mercury-new...

over a period of four years.

The board says holding the victim responsible is just one of nine possible arguments to fend off damage claims, it's no big deal. Come on. Nobody who cares about kids would even want to win that argument. Rape victims, especially children, already feel unwarranted guilt and stigma. If the law found them culpable, why would anyone report abuse?

Board members who would even consider making this case in court ought to be recalled en masse.

Moraga is working on new policies to better comply with mandated reporting laws, but it's also a matter of cultural change. When Correa was accused of 23 counts of sexual abuse, more than 20 current and former school employees showed up to testify on her behalf at a bail hearing. What does that say to kids in Moraga schools? Correa now is serving an eight-year jail sentence.

The Whaley case was extraordinary in its own way. The principal said she saw nothing sexual in a child's report that Chandler blindfolded her, told her to lie on the floor with her legs spread, then put something gooey in her mouth and wiggled her head until she tasted something salty. Chandler said it was a lesson on Helen Keller. Incredible.

Vijayendran had talked to Chandler instead of calling police partly on the advice of a human resources employee — who said she was never trained in the law on mandated reporters. That's hard to believe, but if it's true in Evergreen, it's probably true elsewhere.

Parents need to start asking questions.

Reprint BOOKMARK Print Email Font Resize Return to Top



Homeowners in California may be eligible for 2.00% (2.21% APR) refinance rate for most credit types »  
{Smarter Rates}



New Rule for California Drivers » San Jose - If you drive in California you better read this..  
{Comparisons.org}



Discover the 37 things you should "hoard" before the coming disaster. Ads by Baror

## Recommended for You

- Roadshow: Barricades for I-680 toll lanes not...
- Oakland brings in William J. Bratton to help...
- 'Dome' movie theater in Pleasant Hill may be...
- Hicks: 'Twilight' actor charged with being...
- Contra Costa Fire District sets fire station...
- Golden State Warriors bounce back to beat Utah...

— SPONSORED LINK —

BBC News - India tea workers burn boss to death in Assam state  
(From DailyMe.com)

Powered by  
newstogram

## NEXT ARTICLE IN NEWS

Biz Break: Wall Street whipsaws with 'fiscal cliff' discussions, Apple reveals executives' compensation

» Continue to article...

• FAQ: Article commenting how-tos and tips

Recommend Sign Up to see what your friends rec

SUNNYVALE

Signthendriver

GotDailyDeals

Calif. principal guilty of failing to report abuse - [www.santaclaratimes.com, http://www.santaclaratimes.com/article\\_21951376/calif-principal-guilty-...](http://www.santaclaratimes.com/article_21951376/calif-principal-guilty-...)

Sign In | Register | Newsletters

Mobile | Mobile Alerts | RSS

News Publications My Town Sports Business Entertainment Living Columns Opinion Help

☒ Site ☐ Web Search by YAHOO!

Walnut Creek, CA

In The News: [Zuckerberg privacy problem](#) | [Russia to bar U.S. adoptions](#) | [Marvell patent ruling](#) | [Gun owners' addresses put](#)

0

Share

Tweet

0

Recommend

Send

Sign Up to see what your friends recommend.

## Calif. principal guilty of failing to report abuse

The Associated Press

Posted: 11/06/2012 12:21:58 AM PST

Updated: 11/06/2012 08:04:36 AM PST

SAN JOSE, Calif.—The conviction of a former California principal for failing to report suspected sexual abuse of a child by a teacher marked just the second time in two decades that Santa Clara County prosecutors had pursued the misdemeanor charge—and it was the first time they won, officials said.

After deliberating for two days, a jury on Monday found Lyn Vijayendran, 36, guilty of the crime.

A judge sentenced the former principal of O.B. Whaley Elementary School in San Jose to two years of probation, \$602 in fines and 100 hours of community service, which likely will involve training other educators in the proper reporting of suspected child abuse, the San Jose Mercury News reported (<http://bit.ly/VvJK9G>).

"I agree with the jury's verdict," Santa Clara County Judge Deborah Ryan told a tearful Vijayendran. "You did what you thought was right, but I don't think it was objectively reasonable at the time."

"I know it will have far-reaching consequences for your career. I do think you made a very bad judgment that day," the judge said.

State law requires principals, teachers and others who come into contact with children to report suspected child abuse.

Child-abuse experts hailed the verdict after some thought the case would end in a mistrial.

A mistrial "would have sent the wrong message," said Margaret Petros, a commissioner on the Child Abuse Council of Santa

NEXT ARTICLE IN NEWS

X

Advertisement

Biz Break: Wall Street whipsaws with 'fiscal cliff' discussions, Apple reveals executives' compensation

» Continue to article...

SUNNYVALE

Sign in drive

Get Daily Deals

Calif. principal guilty of failing to report abuse - Contra Costa Times.com [http://www.contracostatimes.com/ci\\_21937598/calif-principal-guilty...](http://www.contracostatimes.com/ci_21937598/calif-principal-guilty...)

own inadequate investigation just isn't a defense," Filo said.

Vijayendran testified that teacher Craig Chandler appeared forthright when he told her an incident during which he allegedly blindfolded a second-grade girl and put something in her mouth was part of a lesson plan about Helen Keller.

Vijayendran's handwritten and typed notes say the second-grader told the principal that Chandler made her lie down on the classroom floor, touched her feet with something that felt like a tongue and put something in the 8-year-old's mouth that tasted like a salty liquid while she was blindfolded and alone with him in a classroom.

The notes also said Chandler wiggled her body and head back and forth and asked her earlier to open her legs.

Prosecutors said they decided to try Vijayendran because her failure to report the incident had bad consequences. Another child reported experiencing similar behavior by Chandler about three months later.

Chandler is now facing charges of committing lewd and lascivious acts on five children. A crime lab allegedly found his semen on a classroom chair.

He has pleaded not guilty and is scheduled to go to trial Dec. 5.

Vijayendran has been reassigned to the district office as a coordinator of teacher support programs. In a statement, the Evergreen School District said jurors had a difficult decision to make, but it was disappointed with the outcome. The statement did not elaborate.

After Vijayendran was sentenced, juror Susan LaGaffa said the ex-principal "stuck her head in the sand rather than pull the alarm. I think she didn't want this ugly thing to be true."

Another juror, Christina Rodriguez said: "There's a lot more people to be blamed for this. She's a good person—we all saw that."

Reprint BOOKMARK Print Email Font Resize Return to Top

## Not Found

The requested URL /serve was not found on this server.

*Apache/2.2.14 (Ubuntu) Server at  
ad.bnmla.com Port 80*

## Recommended for You

- ▶ Contra Costa Fire District sets fire station...
- ▶ Marquee NBA matchup: Warriors' Curry vs. 76ers...
- ▶ Police report: Alamo/Danville/San Ramon
- ▶ Marvell slammed with \$1.2 billion patent...
- ▶ UC Berkeley law students charged in beheading...
- ▶ Roadshow: Berkeley for 1,680 toll lanes not

## NEXT ARTICLE IN NEWS

**Biz Break: Wall Street whipsaws with 'fiscal cliff' discussions, Apple reveals executives' compensation**

» Continue to article...

SUNNYVALE  
VW

Signinendrive

GetDailyDeals

691

Lyn Vijayendran convicted: former principal guilty of failing to report...

http://www.sanfranciscochronicle.com/2012/11/06/lyn-vijayendran-convicted...



December 27, 2012

HUFF  
POST

SAN FRANCISCO

## Lyn Vijayendran Convicted: Former Principal Guilty Of Failing To Report Abuse

11/06/12 11:04 AM ET EST AP

SAN JOSE, Calif. — The conviction of a former California principal for failing to report suspected sexual abuse of a child by a teacher marked just the second time in two decades that Santa Clara County prosecutors had pursued the misdemeanor charge — and it was the first time they won, officials said.

After deliberating for two days, a jury on Monday found Lyn Vijayendran, 36, guilty of the crime.

"I agree with the jury's verdict," Santa Clara County Judge Deborah Ryan told a tearful Vijayendran. "You did what you thought was right, but I don't think it was objectively reasonable at the time.

"I know it will have far-reaching consequences for your career. I do think you made a very bad judgment that day," the judge said.

State law requires principals, teachers and others who come into contact with children to report suspected child abuse.

Child-abuse experts hailed the verdict after some thought the case would end in a mistrial.

A mistrial "would have sent the wrong message," said Margaret Petros, a commissioner on the Child Abuse Council of Santa Clara County. "This verdict is important for all mandated reporters to heed. There are so many who don't take it seriously."

After sentencing, Assistant District Attorney Alison Filo said Vijayendran simply did not meet her obligation as an educator and said as much during the weeklong trial.

"Getting talked out of that reasonable suspicion by her own inadequate investigation just isn't a defense," Filo said.

Vijayendran testified that teacher Craig Chandler appeared forthright when he told her an incident during which he allegedly blindfolded a second-grade girl and put something in her mouth was part of a lesson plan about Helen Keller.

Vijayendran's handwritten and typed notes say the second-grader told the principal that Chandler made her lie down on the classroom floor, touched her feet with something that felt like a tongue and put something in the 8-year-old's mouth that tasted like a salty liquid while she was blindfolded and alone with him in a classroom.

The notes also said Chandler wiggled her body and head back and forth and asked her earlier to open her legs.

Prosecutors said they decided to try Vijayendran because her failure to report the incident had bad consequences. Another child reported experiencing similar behavior by Chandler about three months later.

Chandler is now facing charges of committing lewd and lascivious acts on five children. A crime lab allegedly found his semen on a classroom chair.

He has pleaded not guilty and is scheduled to go to trial Dec. 5.

Vijayendran has been reassigned to the district office as a coordinator of teacher support programs. In a statement, the Evergreen School District said jurors had a difficult decision to make, but it was disappointed with the outcome. The statement did not elaborate.

After Vijayendran was sentenced, juror Susan LaGaffa said the ex-principal "stuck her head in the sand rather than pull the alarm. I think she didn't want this ugly thing to be true."

Another juror, Christina Rodriguez said: "There's a lot more people to be blamed for this. She's a good person — we all saw that."

Filed by Robin Wilkey |

HUFF  
POST HIGHLIGHTS

people have highlighted this!

692

Peggy Hakanson

0 Fans

10:16 AM on 11/07/2012

This incident reminds me of a time I reported suspected child abuse to the principal at the school where I worked. She read my statement of a kindergarten student who had welts on his head. The boy told me that his mom's boyfriend had done this and that mom had told him not to tell.

The principal called CPS, who took this very seriously. However, in our city, the police have the last say. So when CPS wanted to take this child, the police decided to give him back to his mom since she said her boyfriend would be removed from the household.

The police did not want to listen to me when I told them she was the one who told her child not to tell. They told me it was none of my concern.

BTW, the mom was in charge of a battered women's shelter. We never saw her son again. They left town.

HUFFPOST SUPER USER

minimemo

Can I be your friend...if they let me out...

313 Fans

03:50 PM on 11/06/2012

Although right that she has been convicted I kind of can't shake the feeling that she has been held out to dry while I suspect Chandler may manage to squirm out of any kind of conviction..

1jadednewyorker

170 Fans

03:50 PM on 11/06/2012

wth!

HUFFPOST SUPER USER

Eyecre8

Open minds question even themselves

96 Fans

03:22 PM on 11/06/2012

A sad situation all the way around, but the jury did the right thing and sent a message that such (in)actions will have harsh consequences. Protect the children.

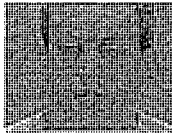
Ex-principal guilty of not reporting possible sex abuse

<http://www.usatoday.com/story/news/nation/2012/11/05/california-pr...>

## Ex-principal guilty of not reporting possible sex abuse

Michael Winter, USA TODAY 8:49pm, EST November 5, 2012

6 Comments Share



(Photo: San Jose Police Department via AP)

A former San Jose principal has been convicted of failing to report the suspected sexual abuse of an 8-year-old girl by a teacher now facing trial for allegedly molesting five children.

Lyn Vijayendran ([http://cbssanfran.files.wordpress.com/2012/07/lyn\\_vijayendran\\_071012.jpg?w=300](http://cbssanfran.files.wordpress.com/2012/07/lyn_vijayendran_071012.jpg?w=300)), 36, cried as she was immediately sentenced to six months of court-supervised probation and 100 hours of community service, the *San Jose Mercury News* reports ([http://www.mercurynews.com/education/ci\\_21934461/san-jose-principal-convicted-failing-report-child-abuse](http://www.mercurynews.com/education/ci_21934461/san-jose-principal-convicted-failing-report-child-abuse)). She could have been sent to jail for six months.

California law mandates ([http://www.mercurynews.com/education/ci\\_21891676/who-is-required-report-suspected-child-abuse?source=pkg](http://www.mercurynews.com/education/ci_21891676/who-is-required-report-suspected-child-abuse?source=pkg)) that administrators and teachers report suspected sexual abuse of students.

The incident occurred last year at O.B. Whaley Elementary School involving 35-year-old Craig Chandler, who taught second grade. Later, a vice principal contacted police after a parent of a second student reported another incident involving Chandler, who was arrested in January and remains in jail.

Here's how the *Mercury News* summed up the case ([http://www.mercurynews.com/prime-courts/ci\\_21917379/inv-former-san-jose-principals-case-stuck-after?source=pkg](http://www.mercurynews.com/prime-courts/ci_21917379/inv-former-san-jose-principals-case-stuck-after?source=pkg)):

The strongest evidence the prosecution presented against Vijayendran was the set of notes she wrote recounting what the child told her when she and her mom came to the principal's office in October 2011 to report a disturbing incident. The mother learned of the incident when she came across a crusty white stain on the sleeve of the girl's navy blue jacket and asked her about it.

The child told Vijayendran that Chandler had summoned her to the classroom and blindfolded her with no one else there, made her lie down on the floor, touched her feet with something that felt like a tongue, inserted something gooey in her mouth and then wiggled her head around till she tasted a salty liquid.

"Anyone with common sense could see the child reported a sex act," [prosecutor Alison] Filo told the jury.

Instead of reporting her suspicions to police, Vijayendran called the head of human resources, who directed her to interview the teacher. But Vijayendran was the one who made the judgment call about not notifying the authorities, Filo contended.

Chandler told Vijayendran that he called the girl into the classroom to prepare a lesson on Helen Keller, which he had been using for years. He said the "instructional goal" was to deprive participating students of sight. He said he used a bath sponge on her foot and legs, and put a bottle containing salty water into her mouth. All the while, his classroom door was open, he told Vijayendran, though the child said the door was closed.

Vijayendran testified that she believed him because he appeared very forthright and at ease, even offering to meet with the girl's parents. She wound up concluding he had merely displayed poor judgment — in keeping with a few other careless things he'd done — and ordered him not to use the lesson plan again.

"She stuck her head in the sand rather than pull the alarm," said juror Susan LaGaffa. "I think she didn't want this ugly thing to be true."

Said juror Christina Rodriguez: "There's a lot more people to be blamed for this. She's a good person; we all saw that."

Vijayendran was reassigned and has been coordinating teacher support programs for the district.

694



SAN JOSE: Principal convicted of failing to report suspected child abuse...

Sign In | Register | Newsletters

Part of the Bay Area News Group

Mobile | Mobile Alerts | RSS

News Publications My Town Sports Business Entertainment Living Columns Opinion Help

Jobs Cars Homes Classifieds Shop

Site Web Search by YAHOO!

Walnut Creek, CA Now: 54°F High: 54°F Low: 37°F city or zip

Advertisement

Recommend Send Sign up to see what your friends recommend.

Share Tweet

## San Jose: Principal convicted of failing to report suspected child abuse by teacher

By Tracey Kaplan  
tkaplan@mercurynews.com  
Posted: 11/05/2012 04:53:55 PM PST  
Updated: 11/06/2012 05:18:48 AM PST

SAN JOSE — In a verdict hailed by child-abuse experts, a jury Monday found a principal guilty of the extremely rare charge of failing to report suspected sexual abuse to authorities, despite being told by an 8-year-old girl in vivid and explicit detail about a possible sexual act a teacher performed on her.

The conviction of former O.B. Whaley Elementary School principal Lyn Vijayendran was only the second time in two decades that Santa Clara County prosecutors had brought such a misdemeanor charge — and the first time they'd won.

Vijayendran, 36, dabbed at her eyes with a tissue while the clerk read the guilty verdict.

She later wept when Santa Clara County Superior Court Judge Deborah Ryan took the unusual step of immediately sentencing her.

"I agree with the jury's verdict," Ryan told Vijayendran. "You did what you thought was right ... but I do think you made a very bad judgment that day."

Vijayendran faced up to six months in jail and a \$1,000 fine. But noting the principal's spotless record, the judge sentenced her instead to two years on court probation. She also ordered her to perform 100 hours of community service, preferably by training educators to comply with California's mandated-reporter law.

The verdict came as relief to child-abuse experts, who were worried when the jury announced Friday that it was stuck after deliberating for less than six hours. The vote was stalled 8-4 in what jurors later said was in favor of conviction.

### Advertisement

A mistrial "would have sent the wrong message," said Margaret Petros, a commissioner on the Child Abuse Council of Santa Clara County. "This verdict is important for all mandated reporters to heed. There are so many who don't take it seriously."

It was unclear Monday whether Vijayendran's school district, Evergreen Elementary, had gotten the message. The district, which has been sued by alleged victims of the teacher, Craig Chandler, hadn't trained Vijayendran or the human resources director she consulted in how to carry out their legal obligation to report suspected abuse or neglect, both women testified.

In a statement late Monday, the district said it "understands that the jury in the trial of Ms. Vijayendran had a very difficult decision to make and while we are disappointed with the outcome we respect the process and remain committed to our mission of working to ensure that each of our students receives a high-quality education in a safe and nurturing environment. We will

continue to work with our community to accomplish this."

School districts in California are technically required to provide training for educators, but can avoid doing so by simply submitting a letter explaining why they didn't.

Prosecutor Alison Filo said the District Attorney's Office made the rare decision to try Vijayendran because her lack of judgment in October 2011 had devastating consequences. Another child reported being molested in a similar fashion by the same teacher about three months later.

Chandler was subsequently arrested in January and ultimately charged with committing lewd and lascivious acts on five children. Tests by the Santa Clara County crime lab found his semen on a classroom chair. The 35-year-old teacher, in jail pending his trial, faces a maximum sentence of 75 years to life if he is convicted.

SUNNYVALE

Sign the driver

Get Daily Deals

Have great items you never use?

855-377-6120

ebay selling assistant

fyibayarea

Find:

In:  East Bay

Buy One 2nd 1/2 off from Strictly To Go  
Pizza of Concord

Great Specials! from Deans on Demand of Fremont

Dining | Ads/coupons | Claim Your Listing

Most Viewed Most E-Mailed

(From the last 12 hours)

1. Marvel slammed with \$1.2 billion patent-infringement judgment...
2. Walnut Creek police investigate fatal officer-involved shooting
3. Richmond woman killed in crash on San Pablo Dam Road
4. Three Brentwood homes evacuated due to natural gas leak
5. Bay Area's tech-led boom is broadening
6. Oakland Raiders shut out in Pro Bowl selections

### NEXT ARTICLE IN NEWS

Biz Break: Wall Street whipsaws with 'fiscal cliff' discussions, Apple reveals executives' compensation

» Continue to article...

Alameda County realignment budget provokes out

695



investigate," Filo said.

The only other case in the past two decades failed to report a bruise on the face of a student.

Some argue violators are rarely prosecuted; others do. Others, including many child

Several jurors said they reached consensus

Juror Kathy Eriksen called the case "tragic, and other mandated reporters don't shirk their

in 1999 that the head of Hillbrook School in Los Gatos ultimately dismissed the case.

work as intended: Those who are supposed to report, disagree.

to the court reporter read back some of the testimony.

dict was "absolutely necessary" to ensure educators, coaches

The jurors all fell for Vijayendran, a relatively young principal who had consulted with the head of human resources and was told to question the teacher. But the administrator left the ultimate decision about what to do up to Vijayendran.

Juror Christina Rodriguez, who initially voted to acquit the principal, said, "There's a lot more people to be blamed for this. She's a good person. We all saw that."

In the end, the strongest evidence against the principal were her own notes from interviewing the child. The girl told the principal that Chandler blindfolded her in a room with no one else there, made her lie down on the classroom floor, told her to open her legs, latched her feet with something

that felt like a tongue, inserted something gooey in her mouth and then wiggled her head around until she tasted a salty liquid. Chandler told Vijayendran that he called the girl into the classroom to prepare a lesson on Helen Keller, which he had been using for years.

Juror Susan LaGaffa said the incident was obviously sexual and the teacher's explanation ludicrous.

"I think she didn't want this ugly thing to be true," LaGaffa said. "But when you have responsibility for hundreds of children, you can't afford to drop the ball."

Staff writer Sharon Noguchi contributed to this report. Contact Tracey Kaplan at 408-278-3482. Follow her at Twitter.com/kaplanreport.

Reprint:



**The Electronic Cigarette**  
If you are a smoker and live in California you need to read this...



**San Jose Arrest Records**  
Who do you know in San Jose that's been arrested? You? Your...



**30-second trick for a flat belly**  
This daily 30-second trick boosts your body's fat-burning...

### Recommended for You

- Oakland Raiders giving Matt Leinart, Terrelle...
- Calif. man convicted of groping drivers...
- Fatal crash closes San Pablo Dam Road along...
- UC Berkeley law students charged in beheading...
- Marquee NBA matchup: Warriors' Curry vs. 76ers...
- Housing project on Buena Vista Avenue before...

— SPONSORED LINK —  
Iranian addicts shift to synthetic drugs  
(From DailyMail.com)

Powered by  
newstogram

FAQ: Article commenting how-tos and tips

Recommend: Sign Up to see what your friends recommend.



Add a comment...

Comment using...

Facebook social plugin

### Related Results

Online Education Earn Your College Degree Online at University of Phoenix. Learn More.

WiFi Energy Management Properties use Wi-Fi to save up to 25% on utility services. Learn more.

School Vouchers Enacting school vouchers has been a problematic issue for many parents.

Ads by Yahoo

Phoenix.edu

### NEXT ARTICLE IN NEWS

Biz Break: Wall Street whipsaws with 'fiscal cliff' discussions, Apple reveals executives' compensation

» Continue to article...

SUNNYVALE

Signinendrive

GotDailyDeals

Alameda County realignment budget provokes out



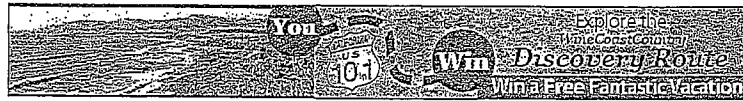
696

Deliberations for former principal resume Monday - Contra Costa Times... [http://www.contracostatimes.com/ci\\_21922/03/deliberations-former-...](http://www.contracostatimes.com/ci_21922/03/deliberations-former-...)

Sign In | Register | Newsletters

Part of the Bay Area News Group

Mobile | Mobile Alerts | RSS



News Publications My Town Sports Business Entertainment Living Columns Opinion Help

Jobs Cars Homes Classifieds Shop

Web Search by YAHOO!

Walnut Creek, CA Now: 54°F High: 54°F Low: 37°F city or zip

In The News: Zuckerberg privacy problem | Russia to bar U.S. adoptions | Marvel patent ruling | Gun owners' addresses published | Pro Bowl rosters | Candy cigarette warning

Advertisement

Recommend Send Sign Up to see what your friends recommend.

Share Tweet

## Deliberations for former principal resume Monday

The Associated Press  
Posted: 11/03/2012 03:20:58 PM PDT  
Updated: 11/03/2012 03:20:58 PM PDT

SAN JOSE, Calif.—Jurors in the trial of a former San Jose principal accused of failing to report suspected sexual abuse of a child by a teacher are set to resume deliberations Monday after getting the case Friday.

The San Jose Mercury News reports (<http://bit.ly/TBUocy>) that jurors deliberated for about six hours Friday, before being ordered to return after the weekend.

Lyn Vijayendran, the former principal of San Jose's O.B. Whaley Elementary School, is charged with failure to report child abuse, a misdemeanor.

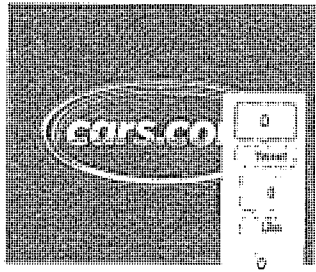
If convicted, she could be sentenced to up to six months in jail.

Vijayendran testified Thursday that teacher Craig Chandler appeared forthright when he told her an incident during which he allegedly blindfolded a second-grade girl and put something in her mouth was part of a lesson plan.

Chandler is facing charges of committing lewd and lascivious acts on five children.

Information from: San Jose (Calif.) Mercury News, <http://www.mercurynews.com>

Advertisement



**fyi bayarea**

Find:   
in:  Go

Buy One 2nd 1/2 off from Strictly To Go  
Pizza of Concord

Great Specials! from Doors on Demand of  
Fremont

Dining | Ads/coupons | Claim Your Listing

Most Viewed Most E-Mailed

- (From the last 12 hours)
1. Marvel slammed with \$1.2 billion patent-infringement judgment...
  2. Walnut Creek police investigate fatal officer-involved shooting
  3. Richmond woman killed in crash on San Pablo Dam Road
  4. Three Brentwood homes evacuated due to natural gas leak
  5. Bay Area's tech-led boom is broadening
  6. Oakland Raiders shut out in Pro Bowl selections

Reprint BOOK-PRK it Email Font Resize Return to Top

NEXT ARTICLE IN NEWS

Biz Break: Wall Street whipsaws with 'fiscal cliff' discussions, Apple reveals executives' compensation

» Continue to article...

SUNNYVALE  
VW

Sign the drive

Got Daily Deals

Biz Break: Wall Street whipsaws with 'fiscal cliff' discussions

697

San Jose Mercury News » Friday, November 2, 2012

TEACHER SEX ABUSE CASE

# Ex-principal tells her side

Defendant in failure-to-report trial chokes up,  
says suspect was forthright in his explanation

By Tracey Kaplan  
kaplan@mercurynews.com  
At times tearing up, the former San Jose elementary school principal on trial for failing to report suspected child sexual abuse tried to explain Thursday what in mind

sight seems unimaginable — why she didn't call police to report that a teacher had blindfolded an 8-year-old student with no one else there, made her lie down on the classroom floor, touched her feet with something that felt like a

tongue, inserted something gooey in her mouth and then wiggled her head around until she tasted a salty liquid.

"It was my job to keep those kids safe," Lynn Vijayendran testified in a choked voice. "But on that day, I did what I thought was right."

"Now, looking back, I have a different lens."

For more than two hours Thursday, the former 36-year-old principal of O.B. Whaley Elementary struggled to convey why she accepted teacher Craig Chandler's explanation for his disturbing behavior — that it was part of a lesson plan about Helen Keller.

"He was very forthright," she said, once again tearing up. "He looked me right in the eye."

For only the second time in two decades, Santa Clara County prosecutors have charged a local educator with shirking their legal obligation to call the authorities when they have a reasonable suspicion that a child has been abused.

Prosecutors have taken the

See PRINCIPAL, Page 7



101 BAY AREA NEWS GROUP B7

## Principal

*Continued from Page 1*

rare step of making an example of Vijayendran, primarily because her alleged lack of judgment in October 2011 had devastating consequences.



**Chandler**  
Facing 75  
years to life  
in child sex  
abuse case

A mother's child reported being molested in a similar fashion by the same teacher about three months later. Chandler was subsequently arrested in January and ultimately charged with committing lewd and lascivious acts on five children. Tests by the Santa Clara County crime lab found his semen on a classroom chair. The 35-year-old teacher, in all pending his trial, faces a maximum sentence of 75 years to life if he is convicted.

If Vijayendran is convicted of her misdemeanor charge, she could serve up to six months in jail, though it is more likely she'd be put on probation. She has been reassigned to the district office as coordinator of teacher support programs.

On Thursday, under gentle questioning by her attorney Eric Geffon, the former principal said she was lulled by several factors into believing the teacher had merely done something dumb.

One reason Vijayendran was convinced was that the child's demeanor was completely out of character for someone who had been molested.

"She had a big smile on her face," she told the jury of five women and seven men. "She was her normal self, very talkative, the same as if she was talking about what she'd perform

at the talent show."

The girl and her mother, who were both interviewed by the principal, didn't contend the incident had been sexual in nature, she said, merely that it had been strange. The mother is a legal immigrant.

Vijayendran also hadn't gotten any training from Evergreen Elementary School District on how to interview suspected victims and other aspects of her responsibilities as a mandated reporter.

She also said she interviewed the teacher because she was told to do so by the district's human resources director, Carole Schmitt. In hindsight, that decision gave Chandler the opportunity to try to get rid of any incriminating evidence.

Her interview with Chandler was very persuasive, Vijayendran said. He told her that he called the girl into the classroom to prepare a lesson on Helen Keller, which he had been using for years. He said the instructional goal was to deprive participating students of sight. He said he used a bath sponge on her foot and legs, and put a bottle containing salty water into her mouth. All the while, his classroom door was open, he told Vijayendran, though the child said the door was closed.

He said students learned better by doing, she said. "He was very convincing."

But under cross-examination by prosecutor Alison Filo, the former principal admitted she was worried before she spoke to Chandler about the sexually suggestive aspects of his behavior toward the girl.

Among other concerns, the child reported the teacher told her to "open her two legs."

"If someone said that to you in a grocery store line, you'd slap him, wouldn't you?" Filo commented.

"You'd have to be crazy not to think that (his be-

havior could be sexual)."

Vijayendran agreed.

That admission contradicts Geffon's insistence that it never occurred to anyone — the principal, mother or human resources director — that the strange encounter was sexual.

Vijayendran also apparently didn't ask Chandler what was going on in her mouth had to do with Helen Keller. And she didn't query other administrators if it was true they knew all about the lesson plan and were fine with it, as Chandler claimed.

Schmitt, the district's human resources director, also didn't help Vijayendran's case much, though the jury may wind up sympathizing with the former principal. The administrator testified she told Vijayendran to interview Chandler, but all she knew at the time were a few scant details. Vijayendran merely told her that Chandler put something "salty, warm and hard" in the child's mouth. Schmitt said she hadn't received any training on reporting child sexual abuse for 17 years.

But Schmitt said it was Vijayendran, not her, who decided how to handle the incident. After the interviews, Vijayendran called Schmitt and, without sharing many details, said she'd decided to grant the mother's request and transfer the child to a different classroom. She also reported ordering Chandler never to use the lesson plan again.

"The only direction I gave her," Schmitt said, "was talk to the teacher and talk to the child."

The case could go to the jury as soon as Friday afternoon after the judge instructs the jury and the lawyers make their closing arguments.

Follow Tracey Kaplan at 408-278-3482. Follow her at [Twitter.com/thaplanreport](https://twitter.com/thaplanreport).

Jury in former San Jose principal's case stalls after less than six hours... [http://www.contracostatimes.com/crime-courts/ci\\_21917379/jury-fo...](http://www.contracostatimes.com/crime-courts/ci_21917379/jury-fo...)

Sign In | Register | Newsletters

Part of the Bay Area News Group

Mobile | Mobile Alerts | RSS

News Publications My Town Sports Business Entertainment Living Columns Opinion Help

Jobs Cars Homes Classifieds Shop

Web Search by YAHOO!

Walnut Creek, CA Now: 54°F High: 54°F Low: 37°F city or zip

Advertisement

Recommend Send Sign Up to see what your friends recommend.

Share Tweet

## Jury in former San Jose principal's case stalls after less than six hours, ordered to return Monday

By Tracey Kaplan  
tkaplan@mercurynews.com  
Posted: 11/02/2012 06:54:27 PM PDT  
Updated: 11/02/2012 06:54:36 PM PDT

Jurors announced they were having difficulty Friday in reaching a verdict in the trial of a former San Jose principal charged with failing to report suspected child sex abuse, prompting the judge to instruct them to keep trying on Monday.

The jury foreman told Judge Deborah Ryan they were split 8-4 after deliberating for about 5 1/2 hours.

It is against the law for the panel to divulge the nature of the split — whether the majority supports a misdemeanor conviction or an acquittal of former O.B. Whaley Elementary school principal Lyn Vijayendran, 35.

But the foreman said all the jurors agreed that the principal had the best intentions. And another juror asked a question that included her feeling that the principal had gotten bad advice from the director of human resources and was misled by the teacher.

The impasse — which is temporary at this point — is not entirely unexpected. The case is only the second time in two decades that Santa Clara County prosecutors have charged a local educator with shirking their legal obligation to call authorities when they have a "reasonable suspicion" that a child has been abused.

The trial pitted two well-respected attorneys against each other — prosecutor Alison Filo and defense attorney Eric Geffon. They duelled politely but intensely throughout the three-day proceeding, including during closing arguments Friday morning.

If Vijayendran is convicted, she could serve up to six months

in jail, though it is more likely she'd be put on probation. She has been reassigned to the district office as coordinator of teacher support programs.

In a powerful closing argument that foreshadowed the split, Geffon urged jurors to "deliberate as a group, but decide as individuals."

From the first, Filo appeared aware of the potential for jurors to sympathize with Vijayendran.

She took pains not to demonize the former principal, whom she characterized as a "nice person who made a terrible, terrible judgment call." On Friday, she told jurors that a guilty verdict wouldn't mean they were saying the educator was a "terrible person who has done nothing good in her life," just that she "failed on this one occasion."

"As Americans, we don't like to make allegations we are not sure about," Filo said. "But that's what you have to do (when you're legally required to report suspected child abuse). You could be wrong, but you have to err on the

side of caution — to protect children."

But Geffon intimated that a guilty verdict would ruin Vijayendran's career. He also urged the jury not to make the grave mistake of punishing the former principal for what is now known about teacher Craig Chandler's conduct.

"The DA wants you to be angry at Chandler and take it out on Lyn," Geffon contended.

The strongest evidence the prosecution presented against Vijayendran was the set of notes she wrote recounting what the child told her when she and her mom came to the principal's office in October 2011 to report a disturbing incident. The mother learned of the incident when she came across a crusty white stain on the sleeve of the girl's navy blue jacket and asked her about it.

The child told Vijayendran that Chandler had summoned her to the classroom and blindfolded her with no one else there, made her lie down on the floor, touched her feet with something that felt like a tongue, inserted something gooey in her mouth and then wiggled her head around till she tasted a salty liquid.

**fyi bayarea**

Find:

In:  East Bay

Buy One 2nd 1/2 off from Strictly To Go  
Pizza of Concord

Great Specials from Doors on Demand of  
Fremont

Dining | Ads/coupons | Claim Your Listing

### Recommendations

**Sign Up** Create an account or log in to see what your friends are recommending.

Police: 1 dead, 3 wounded in Sac home  
invasion  
45 people recommended this.

Walnut Creek police investigate fatal  
officer-involved shooting  
9 people recommended this.

Antioch: Two teens arrested on  
suspicion of burning down park  
playground  
251 people recommended this.

Facebook social plug

Most Viewed Most E-Mailed

- (From the last 12 hours)
1. Marvell slammed with \$1.2 billion patent-infringement judgment...
  2. Walnut Creek police investigate fatal officer...

### NEXT ARTICLE IN NEWS

**Biz Break: Wall Street whipsaws with 'fiscal cliff' discussions, Apple reveals executives' compensation**

» Continue to article...

SUNNYVALE

Signibendrive

GotDailyDeals

UConn's Geno Auriemma, Stanford's Tara VanDyke

700

Jury in former San Jose principal's case stalls after less than six hours... [http://www.contracostatimes.com/crime-courts/ci\\_21917379/jury-fo...](http://www.contracostatimes.com/crime-courts/ci_21917379/jury-fo...)

Instead of reporting her suspicions to police interview the teacher. But Vijayendran was contended.

Chandler told Vijayendran that he called the using for years. He said the "instructional g sponge on her foot and legs, and put a bolt open, he told Vijayendran, though the child

Vijayendran testified that she believed him i girl's parents. She wound up concluding he things he'd done — and ordered him not to

"She gave him a chance to talk her out of it Lyn Vijayendran's colleague, she would ha

Geffon offered the jury a completely differer

He argued that just because the principal v. police.

"In the world the DA is describing, when a kid shows up with a bruise, you just call police," Geffon said.

In her rebuttal, Filo countered by saying what the little girl told Vijayendran was "no bruise."

Follow Tracey Kaplan at 408-278-3482. Follow her at [Twitter.com/kaplanreport](https://twitter.com/kaplanreport).

called the head of human resources, who directed her to ade the judgment call about not notifying the authorities, Filo

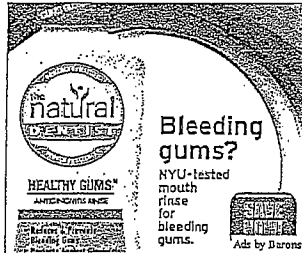
assroom to prepare a lesson on Helen Keller, which he had been rive participating students of sight. He said he used a bath ally water into her mouth. All the while, his classroom door was was closed.

seared very forthright and at ease, even offering to meet with the played poor judgment — in keeping with a few other careless plan again.

ad to do," Filo said. "If the child had identified anyone other than .uthorities)."

didn't mean she should have stopped everything and called

Reprint: [BOOKMARK](#) [Print](#) [Email](#) [Font Resize](#) [Return to Top](#)



**the natural**  
HEALTHY GUMS™  
ANYU-tested mouth rinse for bleeding gums.

**Bleeding gums?**  
ANYU-tested mouth rinse for bleeding gums.

Ads by Bazon

#### Recommended for You

- 'Dome' movie theater in Pleasant Hill may be...
- Contra Costa Fire District sets fire station...
- Police report: Alamo/Danville/San Ramon
- Golden State Warriors bounce back to beat Utah...
- Walnut Creek police investigate fatal officer...
- Report: Justin Smith has partially torn triceps

— SPONSORED LINK —  
Iranian addicts shift to synthetic drugs  
(From DailyMail.com)

Powered by  
newstogram

• FAQ: Article commenting how-tos and tips

Recommend | Sign Up to see what your friends recommend.

Add a comment...

Comment using...

Facebook social plugin

#### Crime & Courts

San Francisco: Man detained after he barricades himself in gas station office while frightened employee hides in bathroom

Community comes together to raise funds to rebuild charred Antioch playground

Lamorinda police reports for Dec. 28, 2012

Richmond man, 34, identified as Emeryville homicide victim

Vallejo paramedics deliver Christmas baby on side of the road

Walnut Creek police investigate fatal officer-involved shooting

Three Brentwood homes evacuated due to natural gas leak

San Mateo County: Postal worker arrested on suspicion of stealing thousands of pieces of mail

#### Related Results

Crime CourtView Anyone's Criminal History! Crime Court Reports in Seconds

Criminal Arrest Records1) Search by Persons Name and State 2) Find Criminal Records.

Court Criminal Records Criminal Record Background Checks, Fast Employment & Tenant Screening

[www.InstantCheckMate.com](http://www.InstantCheckMate.com)

Ads by Yahoo

#### NEXT ARTICLE IN NEWS

Biz Break: Wall Street whipsaws with 'fiscal cliff' discussions, Apple reveals executives' compensation

» Continue to article...

SUNNYVALE

Sign me driver

Get Daily Deals

UConn's Geno Auriemma, Stanford's Tara VanDoren

701

Lyn Vijayendran, Former Principal Accused Of Failing To Report Sex... <http://www.huffingtonpost.com/2012/11/03/lyn-vijayendran-former-p...>



December 27, 2012

HUFF POST SAN FRANCISCO

## Lyn Vijayendran, Former Principal Accused Of Failing To Report Sexual Abuse, Testifies

11/02/12 04:19 PM ET EDT AP

SAN JOSE, Calif. — A former California principal accused of failing to report the suspected sexual abuse of a young student at her school tearfully told jurors that she believed a teacher when he told her the reason he had blindfolded the girl and put something in her mouth was to teach her about Helen Keller.

Lyn Vijayendran, onetime principal of San Jose's O.B. Whaley Elementary School, testified Thursday that the second-grade teacher appeared forthright and "looked me right in the eye" when he explained that what had happened was part of a classroom lesson.

Santa Clara County prosecutors have charged Vijayendran, 36, with failure to report child abuse, a misdemeanor. The law requires principals, teachers and others who come into contact with children to report suspected child abuse.

The charge came after Vijayendran was told last fall of a possible molestation and she determined through her own investigation that no crime had been committed, authorities said. Police later found four more girls at the school that were believed to have been molested.

The teacher, 35-year-old Craig Chandler, was arrested in January and has been charged with five counts of lewd and lascivious acts on a child under the age of 14, involving five children. Authorities say a crime lab found his semen on a classroom chair.

Chandler has pleaded not guilty to the charges. He is in jail pending his own trial and faces a maximum sentence of 75 years to life if convicted.

Vijayendran told jurors that Chandler's interview with her was very persuasive, and that he told her his "instructional goal" was to deprive participating students of sight. Chandler said he used a bath sponge on the student's foot and legs and put a bottle containing salty water in her mouth.

Chandler also said his classroom door was open, though the student said it was closed, Vijayendran said.

"He said students learned better by doing," she said. "He was very convincing."

**Sponsored Links**  
Veterans Administration  
Veteran Homeowners Refinance into a 2.25% No  
Obligation Fast Quote!  
[VeteranLoanAdministration.com](http://VeteranLoanAdministration.com)

**Medicare Health Plans**  
Learn about Kaiser Permanente's® 2013 5-Star rating.  
Sign up today!  
[medicare.kaiserpermanente.org](http://medicare.kaiserpermanente.org)



LifeLock® Official Site  
Protect What's Important To You.  
[LifeLock.com](http://LifeLock.com)

[Buy a link here](#)

Vijayendran also testified she was convinced the student's demeanor was completely out of character for someone who had been molested.

"She had a big smile on her face," Vijayendran said. "She was, her normal self, very talkative, the same as if she was talking about what she'd perform at the talent show."

Vijayendran also said that during an interview, the girl and her mother didn't contend that the incident was sexual in nature — only that it was strange. The mother is a legal immigrant.

Vijayendran added she did what she thought was right at the time. "Now, looking back, I have a different lens," she said.

During her cross-examination, Vijayendran admitted she was worried before speaking to Chandler about the sexually suggestive aspects of his behavior toward the girl.

Among other concerns, the child reported the teacher told her to "open her two legs."

702

Lyn Vijayendran, Former Principal Accused Of Failing To Report Sex... <http://www.huffingtonpost.com/2012/11/03/lyn-vijayendran-former-p...>

"If someone said that to you in a grocery store line, you'd slap him, wouldn't you?" prosecutor Alison Filo asked.

Vijayendran agreed, saying: "You'd have to be crazy not to think that (his behavior could be sexual)."

The jury could get the case as early as Friday.

*Filed by Robin Wilkey |*

HUFF  
POST HIGHLIGHTS x

people have highlighted this!

Huzzah! This text has been highlighted.

Highlights is a new way to discover the most interesting text on Huffington Post!

[See All Highlights](#)

[+Highlight this!](#)

703



charon

Psychopomp for hire

683 Fans

02:33 PM on 11/06/2012

His "lesson" was off any lesson plan and done without anyone else present? What is wrong with this woman that that didn't immediately raise red flags? She failed her duty to report him immediately to the police, and deserves what she gets.

HUFFPOST SUPER USER

David Golani

43 Fans

01:05 AM on 11/06/2012

I will never understand the psychology of an adult that refuses to take a child seriously, If the principal can't put one and one together, then she doesn't belong in a school.

Wgrimm

0 Fans

06:51 PM on 11/05/2012

From Bill Grimm, National Center for Youth Law: The principal's testimony in this case illustrates her fundamentally mistaken belief that it was her job to determine whether or not abuse occurred. She is a mandated REPORTER under the law, not an investigator. The law does not give her responsibility for evaluating the persuasiveness of the suspected abuser nor whether the demeanor that a child is consistent with someone who has been victimized. There is a good reason for that. The investigation of child sexual abuse complaints is a specialized area requiring considerably more expertise, experience and training than required to complete an investigation of neglect. If this principal's perception of her role is shared by others employed by the school district, then someone needs to train them in their proper role.

HUFFPOST SUPER USER

Claudette McCubbin

Seizing the moment as we speak...

139 Fans

11:50 AM on 11/04/2012

Exactly what was the abuse? That he blindfolded a girl and put a bottle in her mouth?

anilimili1

78 Fans

01:07 PM on 11/04/2012

It was not the bottle he put in her mouth... He told the principal that he put a bottle of salt water in the girl's mouth. What was found on the chair was his semen. You do the math.

HUFFPOST SUPER USER

emneaki

434 Fans

01:30 AM on 11/05/2012

Disgusting!

HUFFPOST SUPER USER

Claudette McCubbin

Seizing the moment as we speak...

139 Fans

01:15 PM on 11/06/2012

OMG :\_( the parents should be so sad, angry and frustrated

lessthanorly

117 Fans

04:57 PM on 11/05/2012

did you even READ the article, you stupid girl?

HUFFPOST SUPER USER

Claudette McCubbin

Seizing the moment as we speak...

139 Fans

01:15 PM on 11/06/2012

lessthanorly your comment is devoid of any respect... my heart goes out to you.

lessthanorly

117 Fans

02:22 PM on 11/06/2012

I don't respect people who make minimizing comments about children being abused.

HUFFPOST SUPER USER

Claudette McCubbin

Seizing the moment as we speak...

139 Fans

10:15 AM on 11/07/2012

such as you. I don't either.

lessthanorly

117 Fans

11:29 AM on 11/07/2012

"I am rubber you are glue" doesn't work in the real world, child.

jessimae

1 Fans

10:35 AM on 11/04/2012

I wish someone would have thought twice before using "sex scandal" in the headline on the main page. I know this is something media outlets do all the time but it drives me up the wall! Child abuse, molestation, and rape are not "sex scandals". Your poor word choice of "sex scandal" frames rape, child abuse, and molestation as similar to "scandals" involving sex between consenting adults. This perpetuates rape culture. Stop.

kennyfloyd

My Micro-bio is empty

268 Fans

11:23 AM on 11/04/2012

"perpetuates rape"? A little over the top don't ya think? So now that I've read the title and article, I'm going to rape now? What exactly is a rape culture? Why is it a scandal if it involves adults

but it's not if it involves children, I don't get it. Your point would be easier to understand if you said that rape is not sex, so sex should not be in the title. It is a scandal and the incident was sex as a weapon or a means so yes its a sex scandal, it may have been more right to say molestation scandal but to then call it perpetuating rape culture is hyperbole.

lessthanorly

117 Fans

04:59 PM on 11/05/2012

I am not going to waste my time trying to educate such an ignorant person. there is LIMITLESS information about rape culture out there. go educate yourself before YOU start to perpetuate rape culture even more than you probably already do.

kennyfloyd

My Micro-bio is empty

268 Fans

08:51 PM on 11/05/2012

IN other words, you don't know what it means. I asked you, why can't you give me an answer.?

The chances that I'll have anything to do with rape or a rape is zero. It would be impossible for me to do such a thing and you have a lot of nerve suggesting anything but. It is impossible for most men to be angry, violent and turned on at the same time, that is why only a small number of the 3.5 billion men actually commit such a crime. I don't know if your damaged or just angry at men but don't take it out on me, I'd be able to rape about as much as I'm able to murder, I couldn't do neither nor can I condone such a thing, and most men are the same. Maybe you should ask for some help, there is no shame in it.

Lily Stormcrow

82 Fans

07:17 AM on 11/07/2012

Dude, you really do not know the discourse. Google rape culture and educate yourself.

kennyfloyd

My Micro-bio is empty

268 Fans

09:03 AM on 11/07/2012

Hey, I don't know what you issue with men is, but this is the second time I've asked you to explain and you can't. Blowing off some steam at a man gets you through the day, fine, just use words and phrases you understand so when you get called on it you'll sound like you know what you're talking about. Especially when you accuse someone of the very topic youre talking about, at least then you won't sound like a know nothing blow hard. Good luck, sounds like you'll need it.

Lily Stormcrow

82 Fans

12:50 PM on 11/07/2012

I'm a different person than the above poster, dude. And it's not our job to educate you when all you have to do is google the term.

backbonegirl

97 Fans

03:32 PM on 11/13/2012

Ooops, I gave you a "favorite" out of mistake.

Kennyfloyd is just asking a normal question and you get angry.

That doesn't take us women anywhere. Explain what you mean instead of getting all angry...

I had to look up the phrase rape culture myself, even if I'm an advocate against Sexual Child Abuse. This is the definition given in Wikipedia (which I normally don't go to, but I liked the way it was described for this):

"Rape culture is a concept used to describe a culture in which rape and sexual violence are common and in which prevalent attitudes, norms, practices, and media normalize, excuse, tolerate, or even condone rape.

Examples of behaviors commonly associated with rape culture include victim blaming, sexual objectification, and trivializing rape. Rape culture has been used to model behaviour within social groups, including prison systems where prison rape is common and conflict areas where war rape is used as psychological warfare. Entire countries have also been alleged to be rape cultures."

I agree that the term "Sex Scandal" shouldn't have been used. It's Child Sexual Abuse and Child Abuse by the teacher, that's for sure. When it comes to the principal, she made a HUGE mistake in not reporting it. She should be punished.

Just for clarification: A rape is to insert the penis, an object or a finger (or another body part) into somebody else's body against that person's consent. When the other person is a child, it's ALWAYS rape.

HUFFPOST SUPER USER

JimmyforLiberty

20 Fans

04:01 PM on 11/04/2012

I came here to see what Helen Keller was up to. Now I wonder the child didn't have TEETH?  
Now that would have been justice!

LadyChef

I can cook it...and dish it out

250 Fans

10:22 AM on 11/04/2012

Salty water? Really?

HUFFPOST SUPER USER

Ron Hinchley

The wise man considers what he wants

96 Fans

11:00 AM on 11/04/2012

Ya, little more information, ...or a little less.

LadyChef

I can cook it...and dish it out

250 Fans

11:41 AM on 11/04/2012

If it wasn't so horribly sad how this Principal let her student's down, it would be funny.

backbonegirl

97 Fans

03:33 PM on 11/13/2012

Funny? Did you not understand that the kid was sexually abused?

LadyChef

I can cook it...and dish it out

250 Fans

04:55 PM on 11/13/2012

I guess the part where I said it was so horribly sad wasn't clear?

LuneKeltkar

129 Fans

11:54 AM on 11/04/2012

Well for the love of all the Saints who once rose up to fall down and dance stupidly in the street,  
WomanCook,

There you have it! Helen Keller Teaches The Pacific Ocean! Salty Water? Yes. Yes! YES! I'm  
an educator, and All Of This Made Perfect Sense To Me!

(There is that one lone scruple in my left shoe, which is a pebble, but not that many people know  
so, and at any rate) HE WAS SO SINCERE! On the grave of my last neuron I swear HE WAS  
SO SINCERE!.

(Yes yes yes, I \*know\* I'm irremediably stupid, but I HAVE TENURE! I'm not entirely sure  
what that means, but I'm supposed to shout it loud and long. But about the salty water. I can't for  
the life of me imagine why you brought that up. I'm quite sure that most people here even forgot  
that we were talking about that. Saints alive, I'll bet that you forgot too.)

Lune

LadyChef

I can cook it...and dish it out

250 Fans

01:49 PM on 11/04/2012

You put my frustration in words better than I ever could.

HUFFPOST SUPER USER

nmeemn

Sum, ergo cogito.

251 Fans

11:50 AM on 11/08/2012

I just wanted to clarify that school administrators don't have tenure... Different union altogether  
from teachers.

HUFFPOST SUPER USER

Barbara Lilly

Think in color-not black and white

398 Fans

09:57 AM on 11/04/2012

This is a prime example of why there needs to be more education (in general) but especially for those working in schools about the warning signs of abusers/abuse. The fact that she said the girls actions "were not consistent with someone who had been abused"???!!! There is a myth that children who have been abused somehow "shut down". If that were true it would be easy to spot who might be being abused at any time. Children react to trauma in wildly different and sometimes seemingly contradictory ways. Yes some kids "shut down", but many compartmentalize, dissassociate, or overcompensate in "super happy mode" to make things feel normal again/gain some control back. That principal and school system were grossly negligent and I hope those children's parents get some good lawyers and bring some hefty civil lawsuits.

Scootman78

11 Fans

09:21 AM on 11/04/2012

From the article about 7 paragraphs up from end: "The mother is a legal immigrant."

What does the victim or victim's family being documented or undocumented have to do with this case?

I'm asking honestly because I can't see a reason as to why it has any bearing.

piggywillow

18 Fans

09:43 AM on 11/04/2012

It may have been mentioned because there could have been a language barrier in expressing her (the mother's) concern about the incident. That's how I took it, anyway.

Scootman78

11 Fans

10:18 AM on 11/04/2012

Well that's true and I thought that too, but it wasn't mentioned in the article, so I wasn't entirely sure.

And I still don't get why they had to mention legal or immigrant. I have some very southern relatives in my family, born here in Florida, who nobody can really understand.

The article should have just said the principal felt there was a break down in communication and understanding with herself, the parent, and the student of what had taken place.

kennyfloyd

My Micro-bio is empty

268 Fans

11:26 AM on 11/04/2012

They could have been legal immigrants from Toronto Canada, no language problem there and we have sex criminals up here too, so I don't know why they said that either. Maybe they think that sex crimes don't happen in other cultures and the Mother just couldn't understand.

think-it-over

219 Fans

11:28 AM on 11/04/2012

And, of course, the only way to convey that information is to mention that she's an immigrant, without saying where she's from or if there's actually a language barrier.

piggywillow

18 Fans

04:23 PM on 11/04/2012

I agree, it should've been stated more clearly.

anilimili1

78 Fans

01:12 PM on 11/04/2012

It may also have been noted because even legal immigrants are hesitant to press charges--since 9/11 the laws have become very non-immigrant-friendly (and I'm not talking of illegal immigrants, but legal ones, too), and people prefer to not rock the boat. It might be why the mom was deferential, or appeared to not press the issue too much. She might've been worried that to push too hard, or to be seen as falsely accusing, would result in her deportation. It has happened in other places, to LEGAL immigrants. It is a post 9/11 (Bush politics, too) reality.

HUFFPOST SUPER USER

Sonupv

207 Fans

10:15 AM on 11/04/2012

I am an LEGAL immigrant and I can tell you that being an immigrant matters for sure and being an undocumented immigrant probably matters even more. I didn't go to school here and now my kid does and I am constantly struggling to understand the rules and the ways things are done in schools here, which are a lot different than from where I grew up. I struggle to figure out what to watch out for and what not. I want to ensure the well being of my kid while not embarrassing him by acting like an out of place immigrant. I think undocumented immigrants are probably even more reluctant to make a big deal of things, for the fear of being deported.

Scootman78

11 Fans

10:25 AM on 11/04/2012

I know all of this Sonupv as I have seen this with the friends I had in school who were immigrants. If they saw something wrong going on in the school - which I can tell you was wrong - they wouldn't report it because they were afraid of getting in trouble. I was able to talk one of my friends into saying something because it wasn't something I could mention (as it was something written in the girl's bathroom and I was a dude) and she definitely did not get into any trouble. In another instance though, I said something on behalf of my friend and did not betray their identity to the guidance counselor that I had talked to.

I wrote my post only in wondering why the sentence was mentioned all by itself in the article without anything else to support it. I was just hoping it wasn't written as a justification of why the principal didn't report the incident. If the principal sensed confusion or hesitation (she's supposed to be able to tell the difference at her pay rate), she should have still said something.

Even if the parent or student didn't want trouble, the teacher needed to be stopped and I think it was the principal's duty to investigate it further.

Then again, I'm only going by what the article is saying, so I may not know all the facts as to what the principal did or didn't do.

rafaelrobyns

micro-biotic

225 Fans

10:52 AM on 11/04/2012

I read it as an attempt to characterize the nature of the interaction. Children of immigrants are often more vulnerable because they may not fully understand the cultural norms, having grown up in a house that imported different cultural norms. Tagging it as legal wards off possible discriminatory feelings that might arise against illegal immigrants. Don't fear information.

HUFFPOST SUPER USER

forestlady

393 Fans

10:53 AM on 11/04/2012

It may have been because perhaps the mother was afraid to speak out; if you're an immigrant, even legal, you can be afraid of not being allowed citizenship or of someone fixing it so that you don't have the right papers etc or afraid of being deported. With the way things are these days in the U.S.,

HUFFPOST SUPER USER

baseballmom

My microbio: as empty as Michelle Bachman's noggin

596 Fans

09:21 AM on 11/04/2012

Weren't there any other children in the classroom?

MyIrishEyes

Are Smilin!

246 Fans

09:40 AM on 11/04/2012

I was wondering the same thing.

Jon Adcock

24 Fans

10:09 AM on 11/04/2012

That's my question also. If he had the girl alone in the classroom and blindfolded, then why didn't the principal see that as a red flag that something inappropriate was going on.

independentcynic1228

36 Fans

11:33 AM on 11/04/2012

That's what I have wondered as well. I mean, if the principal went out and asked the other students what happened and they said it was during a Helen Keller lesson, then it would pretty much throw the charge out. Now, if it happened with the student alone, then I would be pretty



convinced something was up. Given all the issues these days, I highly doubt a teacher would be conducting any sort of lesson like that with a student alone. It would be nice if they actually reported when it took place

HUFFPOST SUPER USER

Greenman7

163 Fans

12:03 PM on 11/04/2012

There is no instructional objective with one student alone in a classroom. Objectives are for a classroom full of students. Even if it's a make-up lesson from a student being absent from class, a teacher should know better than to do something like this to a teenager.

At worst, it's molestation: at the least, it's very poor professional judgment.

Something ain't right.

independentcynic1228

36 Fans

02:01 PM on 11/04/2012

That is what I am saying. You would not see a teacher conducting one on one instruction of this type. The article is sorta vague as to whether this occurred one on one or if it occurred with other students present. Which is where I am weighing the principals thought process. If it happened with other students, it would sound weird but you would sort of doubt whether anything offensive was happening (we have to remember this is before the police found the semen on his seat). But if it was with the student alone, then she deserves to be punished because that would just be way too creepy to not report. The article doesn't really tell us when this happened even though reading it again it certainly does allude to the fact that he was alone with her..the whole door closed or open debate.....

HUFFPOST SUPER USER

Greenman7

163 Fans

02:18 PM on 11/04/2012

Yes the article does have those gray areas. Perhaps better to not report unless there is a full slate of facts.

think-it-over

219 Fans

11:45 AM on 11/04/2012

Apparently there weren't, and it seems that the teacher admits that and the principal knew it. Here's a quote from an article from a real news source

([http://www.mercurynews.com/crime-courts/ci\\_21917379/jury-former-san-jose-principals-case-stuck-after](http://www.mercurynews.com/crime-courts/ci_21917379/jury-former-san-jose-principals-case-stuck-after)):

"The strongest evidence the prosecution presented against Vijayendran was the set of notes she wrote recounting what the child told her when she and her mom came to the principal's office in October 2011 to report a disturbing incident. The mother learned of the incident when she came across a crusty white stain on the sleeve of the girl's navy blue jacket and asked her about it.

"The child told Vijayendran that Chandler had summoned her to the classroom and blindfolded her with no one else there, made her lie down on the floor, touched her feet with something that felt like a tongue, inserted something gooey in her mouth and then wiggled her head around till she tasted a salty liquid"

HUFFPOST SUPER USER

baseballmom

My microbio: as empty as Michelle Bachman's noggin

596 Fans

02:24 PM on 11/05/2012

Ugh. How could anyone not see the red flags in this?

This user has chosen to opt out of the Badges program

think-it-over

219 Fans

08:01 PM on 11/05/2012

Sometime we have a hard time seeing things we don't want to see, so maybe she just didn't want to believe he could have done it. From the distance of my keyboard it certainly looks like a report and an investigation were mandatory, but when we encounter things like that IRL we don't always react the way we think we would.

76jackboy

2 Fans

09:15 AM on 11/04/2012

She should get same punishment as him

HUFFPOST SUPER USER

CASSIE60

Think before you speak. Read before you think

4143 Fans

08:53 AM on 11/04/2012

Lyn Vijayendran is one of the dumbest teachers I have ever heard of.....There was no way that a teacher should have thought that "blindfolding" a child would teach them anything about Helen Keller.....especially inserting something into her mouth.....

I hope they get rid of Lyn too. Lyn has very poor judgement, and is predispose to believe a teacher over the student.

moboyle110

The perfect speed is being there

1818 Fans

08:10 AM on 11/04/2012

"Vijayendran told jurors that Chandler's interview with her was very persuasive,..."

That's what these molesters are, very persuasive. Just look at how persuasive Jerry Sandusky was at Penn State.

Charles-12881

If the doors of perception were cleansed

166 Fans

08:19 AM on 11/04/2012

I would like to see how persuasive they are after castration! There is no cure for these people, start with that.

moboyl110

The perfect speed is being there

1818 Fans

03:36 PM on 11/04/2012

Yes, I agree that there's no cure for these people.

jadedwilliam

1660 Fans

08:51 AM on 11/04/2012

He was also a brilliant offense coach Penn State would do anything to keep.

moboyl110

The perfect speed is being there

1818 Fans

09:06 AM on 11/04/2012

Yes, unfortunately for the victims, that is true.

HUFFPOST SUPER USER

FiredUpRTG

Don't start no stuff; won't be no stuff...

523 Fans

07:38 AM on 11/04/2012

Either a sick teacher or dumb. If sick, go to jail. If dumb, it's evidence as to why students graduate not knowing how to read, write, do math, know scientific facts and have no idea where Iraq is.

newworldman777

What would our future 7th generation think of us?

1318 Fans

08:34 AM on 11/04/2012

According to Sarah Palin, Iraq is right next door to Afghanistan...oops, forgot about that little country called Iran.

HUFFPOST SUPER USER

CabCurious

let's be honest

1612 Fans

07:26 AM on 11/04/2012

The principal thought it was ok for a teacher to be alone with 2nd graders and bathing parts of their bodies as part of a sensory "lesson?"

HUFFPOST SUPER USER

Joshd25

378 Fans

07:08 AM on 11/04/2012

She should still be convicted. Being stupid shouldn't excuse you from a crime.

KenInd

1080 Fans

06:23 AM on 11/04/2012

If any parent reading this is concerned by it, I would suggest they ask to read their school district's written policies on child welfare and child protection before sending their child to school. Such policy documents are required to be placed on every school's website in the UK, as well as available to all interested parties through the school office.

The US is a decade or more behind in terms of child protection.

HUFFPOST SUPER USER

CabCurious

let's be honest

1612 Fans

07:30 AM on 11/04/2012

I have a hard time believing that any society is "ahead" of the US in terms of liability and litigious frameworks for child protection.

Can you specify something in such a school policy that isn't federal or state law in the US?

KenInd

1080 Fans

07:38 AM on 11/04/2012

Clearly, as this story indicates, mandated reporting is lax, or non-existent.

The US lacks a national Childline that empowers children to anonymously seek help if abuse or concerned.

There are two. Both are pretty big.

adventuregnome

26 Fans

07:50 AM on 11/04/2012

Here's one example: corporal punishment. In the United States, you can spank or paddle a public school child in 19 states. Forty-eight states allow corporal punishment in private school. The UK banned corporal punishment in public schools in 1999, and in private schools a few years later. The more you know!

HUFFPOST SUPER USER

CabCurious

let's be honest

1612 Fans

08:29 AM on 11/04/2012

While I don't support corporal punishment in schools, I consider the matter an open debate in terms of appropriateness. So I think it's a mistake to equate it with child abuse or mistreatment, categorically.

Most cities in the US, even down south where they don't have state laws, have banned all forms of corporal punishment.

There are federal laws in the US which protect kids in terms of being unfairly punished (in any manner) for behavior that is rooted in their disability of any sort. There are federal laws in the US which protect minorities from being discriminated against, as well.

Angelina Grimke

9 Fans

09:02 AM on 11/04/2012

Perhaps, but not in practice. Many states still allow for physical restraint and confinement in isolation cells- especially for students that are segregated due to disabilities

HUFFPOST SUPER USER

CabCurious

let's be honest

1612 Fans

09:13 AM on 11/04/2012

That's not corporal punishment.

You're talking about extreme, emergency cases of severe emotional disturbance as documented over many years and under very strict Federal guidelines. We're talking about children who regularly bite and spit, for whom very special supports (and protections) are required.

As for legal reality vs practice, I agree that we could easily find inappropriate treatment of children that is basically against the law. But what matters is that it's against the law (i.e. at least we have laws that delineate protections in process and explicit treatment).

adventuregnome

26 Fans

10:41 AM on 11/04/2012

The point is, as a parent in the US, you have to do your due diligence when it comes to whether or not your child can be legally struck by a school administrator. In the UK, you don't have to worry about this, because it is ALWAYS illegal. There's no question as to whether or not the punishment was appropriate, or if the administrator hit too many times, or too hard, or if the posture and placement of the child during the punishment was inappropriate. What nonsense, right?

Personally, I can't imagine any responsible parent being comfortable with a non-family member deciding whether or not their child should be physically struck by an authority figure, but that's just me.

throwcautiontothewind

Dilettante

572 Fans

11:44 AM on 11/04/2012

Sorry, but I'm a research psychologist who has looked into the consequences of spanking in schools, and it most definitely can be characterized as child abuse/mistreatment. The kids most likely to get hit are the ones coming from poor family backgrounds (where they are often hit) and

thus have NO safe haven around adults anywhere. Routine practice of corporal punishment in schools can have long term effects psychologically and in terms of the child's likelihood of graduating high school.

Furthermore, you are wrong about the laws. SOME cities have banned it, but almost all southern states have state laws permitting corporal punishment. In some schools, parents are asked to sign a permission slip at the beginning of the school year permitting their child to be paddled if necessary.

HUFFPOST SUPER USER

CabCurious

let's be honest

1612 Fans

05:56 PM on 11/05/2012

I'm wrong that most big cities have banned it, even in the south? ...

As for spanking, I don't support it whatsoever. However, I can be honest (and if you are a serious research, you should be honest that there's a debate)... enough to say that it's a values question with data and arguments on both sides.

Permalink | Share it

throwcautiontothewind

Dilettante

572 Fans

06:33 PM on 11/05/2012

The evidence and arguments are \*heavily\* weighted against spanking in schools (and by the way, in the house, too). Saying that there are two sides to an issue doesn't mean that both sides are equally good.

KenInd

1080 Fans

06:20 AM on 11/04/2012

That any school administrator would not inform 1) police 2) child welfare authorities BEFORE interviewing the employee beggars belief. That interview must be part of the investigation by those mandated to investigate the alleged abuse - not a principal. The principal places herself in legal jeopardy by assuming the role of detective and D.A. This should be in the first chapter of 'How to Run a School for Dummies'.

What is wrong with America?

HUFFPOST SUPER USER

CabCurious

let's be honest

1612 Fans

07:36 AM on 11/04/2012

You honestly think every accusation at a school should immediately go to the police?

Do you have any idea how much time/money would be wasted by a DA at schools? Do you have any idea how many accusations get thrown at teachers by parents and kids?

Of course the principal throws herself in legal jeopardy. That job is 24/7 legal jeopardy.

Wellsetsee

Trying hard to understand

208 Fans

08:00 AM on 11/04/2012

Personally I'm getting tired of you making this into a small event. Yes every single accusation should go to the police. Every one. There is no excuse to let a child fall through the cracks because it might inconvenience someone. Money is never an issue when it come to the safety of our children. If you are so worried about false accusations .... Prosecute the people who made them. Ya don't put other children in danger.....

Why do you take a stand against the children and for the perps? ....  
Makes you smell fishy..... Just sayin.

HUFFPOST SUPER USER

CabCurious

let's be honest

1612 Fans

08:18 AM on 11/04/2012

Where did I take a stand against the children and for the perps?

Slander much?

See, this is exactly the point. People get emotional very quickly and start throwing around accusations in schools. It's the nature of the situation. You have suspicious parents. You have sometimes immature children. And yes, you also have unethical teachers (who will not only abuse children but also abuse other teachers with fake accusations). Schools have CONSTANT accusations flying around and it's ridiculous to think every accusation requires police involvement. However, principals need to respect the law and take every accusation seriously. If it's an accusation of child abuse and there's even the SLIGHTEST suspicion, then it is the LAW to report it.

I 100% support that requirement. But there must be some basis for reporting.

In this case, I believe this story immediately deserved a call to authorities. The principal betrayed the trust of the parents and broke the law.

Wellsetsee

Trying hard to understand

208 Fans

08:57 AM on 11/04/2012

It is not ridiculous . It is essential. That is why the police and children services are there. Again , if someone knowingly falsifies a report of abuse they need to be prosecuted.

I think you are talking tort reform any way, and that is a different issue.

No compromise in defense of the children!

For the most part I think we see eye to eye on this issue....I apologize for coming on so hard , this is an issue that hits close to home.

HUFFPOST SUPER USER

CabCurious

let's be honest

1612 Fans

09:14 AM on 11/04/2012

You said she should have called the police before even talking to the teacher.

We disagree.

You can attack, flame, slander all you want but my point has nothing to do with undermining child protections. I am a VERY strong advocate of going after child abusers and have made reports to that effect myself.

Good bye.

HUFFPOST SUPER USER

CabCurious

let's be honest

1612 Fans

09:27 AM on 11/04/2012

And no, you can't take back your nasty allegations.

That's the whole point.

Wellsetsee

Trying hard to understand

208 Fans

12:14 PM on 11/04/2012

I never said or implied that the principal should have contacted the authorities before talking to the teacher. Never. I was referring to your allegations that reporting all cases is a waste of resources ... And I was saying there is no compromise in the defense of children. If their are false claims that is an entirely different matter. They need to be delt with severely by our courts... You can't risk letting one child slip through the cracks for expediency's sake. I wish I could put that chip back on your shoulder so we could talk like adults ..but hey. Peace

HUFFPOST SUPER USER

forestlady

393 Fans

11:14 AM on 11/04/2012

I think I understand where you're coming from. My husband taught in CA and we've talked about this alot. Yes, there are people who will lie and accuse a teacher of molesting a child and it happens constantly. I'm guessing most of these things probably aren't true, they are false charges by another teacher or a parent. My husband had a father who threatened to murder the teachers unless his child was passed. He was serious and was involved in some group that would have carried out the threat, no doubt in the teacher's mind. It was really scary. Most people have no idea how public schools really work and they dont know how horrible parents, children or even other teachers can be. I don't think there's a requirement to talk to the accused teacher, but there is a requirement to report ALL such charges within 36 hours.



grasyknol

Senator Sherrod Brown - My Senator!

583 Fans

10:30 AM on 11/04/2012

I agree with you. You're a rational person - rare these days. F/F

HUFFPOST SUPER USER

forestlady

393 Fans

11:10 AM on 11/04/2012

"You honestly think every accusation at a school should immediately go to the police?"

Yes, because that is the law. Counselors and teachers are required to report any and all suspicious sexual abuse and to report it directly to the police within 36 hours.

<http://criminallaw.uslegal.com/mandatory-child-abuse-reporting-california/>

pattymcnutt

1 Fans

11:21 AM on 11/04/2012

Actually, yes. Legally, these things MUST be reported to either the police or child protective services, which is precisely why the principal is facing criminal charges. It is also against the law for the principal (or any other school employee) to conduct their own investigation. You ask only enough questions to get the information you need to make the report and then you allow the professionals (who are actually trained in interviewing abuse victims) to do their job and investigate. The only job of the principal is to immediately remove the teacher from the classroom until the investigation is complete.

And the DA has nothing to do with it- it doesn't even GO to the DA unless the police decide they have enough information to pursue criminal charges.

KenInd

1080 Fans

12:18 PM on 11/04/2012

"You honestly think every accusation at a school should immediately go to the police?"

Yes, Absolutely. 100%.

The police can sort through the bogus accusations. They will soon be up to speed on that issue. Until an arrest is made, however, the process should be confidential.

novabird

Lover of Life, Radical Centrist

645 Fans

08:41 AM on 11/04/2012

Actually there are established laws in most places that thoroughly cover legal matters that occur in schools.

When someone takes an administration position such as principal or vice principal they have often received formal training or taken a course that covers the legal ramifications of what they are, and are not allowed to do, and when it is appropriate to call in the police.

The principal was well within her legal rights to interview the teacher. Where she failed horribly was believing the persuasive psychopathic teacher.

KenInd

1080 Fans

12:20 PM on 11/04/2012

What she did wrong was not pass her findings on to the relevant authorities. She assumed the role of judge and jury.

Even if she had proof that the accusations were probably false, she should have passed the case up the chain. You can assume that every teacher will soon have a 'file'.

HUFFPOST SUPER USER

UCBAhum

Mind-forged manacles and man-made tyrannies

1211 Fans

06:04 AM on 11/04/2012

Semen on a classroom chair....

lovely.

Welletsee

Trying hard to understand

208 Fans

08:07 AM on 11/04/2012

But you are correct. If teachers earned what they deserve.... Teaching is the foundation of our future.

HUFFPOST SUPER USER

Sharelle Milo

132 Fans

08:44 AM on 11/04/2012

Teachers are not community college rejects. Most teachers graduate from rigorous programs of study in their subject area.

novabird

Lover of Life, Radical Centrist

645 Fans

09:00 AM on 11/04/2012

Not all teacher training programs at universities are rigorous. Many of the programs I am aware of give out "A"s to everyone due to grade inflation, which is all too common in universities these days.

HUFFPOST SUPER USER

Crispaccio

The real trouble with reality: no background music

49 Fans

09:54 AM on 11/04/2012

and this is the same reason k-12 kids who can't read are pushed to the next grade level until they graduate .... there is pressure from the admins, the school board, the state, and fed. all of it is money, so teachers either inflate grades or get fired. very little has to do with actual teaching or the quality of the teacher.

independentcynic1228

36 Fans

11:39 AM on 11/04/2012

Don't forget the parents either. I have several friends who have become teachers and each one of them has their own story about a parent threatening them. Pass my kid or else.

It's not a surprise that many of them are now starting to look at other types of jobs because it's a no win situation when you have the influence from the groups you mentioned on one side, parents on the other and depending on where they teach, even the teachers union. I feel sorry for teachers these days

HUFFPOST SUPER USER

Crispaccio

The real trouble with reality: no background music

49 Fans

02:08 PM on 11/04/2012

i feel sorry, too, for the kids and all of us who will invariably depend on them for basic and advanced services. smh.

HUFFPOST SUPER USER

Barbara Lilly

Think in color-not black and white

398 Fans

10:09 AM on 11/04/2012

While I am sure there are "degree mills" out there for teachers, as the wife of a high school physics teacher I resent you branding teachers as community college rejects. My husband left a high paying job to become a teacher because he wanted to do work that meant something. He worked very hard to get into a good program, and rightfully earned his Masters Degree in Teaching. Yes teachers deserve better pay, and yes there are some horrible teachers and administrators out there, but by perpetuating the myth that all teachers are somehow sub par, you just make the problem worse.

novabird

Lover of Life, Radical Centrist

645 Fans

10:12 AM on 11/04/2012

Reading comprehension.

It's a good thing.

HUFFPOST COMMUNITY MODERATOR

jessicadevyn

1606 Fans

05:36 AM on 11/04/2012

Can we not call this a "sex" scandal? This is abuse.

HUFFPOST SUPER USER

battlescar2012

Just trying to keep it real.

297 Fans

05:17 AM on 11/04/2012

Okay, the blindfolding part makes sense if you're teaching about Helen Keller.

But THIS: "Chandler said he used a bath sponge on the student's foot and legs and put a bottle containing salty water in her mouth."

Makes NO sense at all. If this didn't raise a red flag in the principle's mind then she's too daft to be running a school.

HUFFPOST SUPER USER

UCBALum

Mind-forged manacles and man-made tyrannies

1211 Fans

06:05 AM on 11/04/2012

yep.

GraniteSkyline

I wish you happiness!

4370 Fans

06:37 AM on 11/04/2012

Agreed. That was WAY over the line.

The principal seems very weak and passive.

kazarule

101 Fans

06:46 AM on 11/04/2012

I think the salty water would be a red flag.

Craig 212

Tide goes in, tide goes out.

1122 Fans

08:04 AM on 11/04/2012

It sounds to me like he was trying to demonstrate to the kids how you rely more on your other senses when one sense is lost. In which case, there would be a practical reason for having the kid experience the stimulation of other senses while blindfolded.

And if that is the case, I don't think any lines were crossed. I could just as easily see a female teacher trying to demonstrate the same lesson, and featuring no blowback whatsoever.

It's only "over the line" if you're the kind of person who believes a teacher should never have any

physical contact with a student whatsoever. Is it inappropriate for a teacher to, for example, apply a bandage to a small cut?

HUFFPOST SUPER USER

Sharelle Milo

132 Fans

08:46 AM on 11/04/2012

His semen is on a chair in the classroom...how to do you explain that? Sounds to me that the salty drink was his semen.

Craig 212

Tide goes in, tide goes out.

1122 Fans

08:54 AM on 11/04/2012

I wasn't defending him personally. I don't know this man, I don't know his motives or his intentions.

I was defending the lesson plan, because it's not as ludicrous as people are making it out to be.

HUFFPOST SUPER USER

Barbara Lilly

Think in color-not black and white

398 Fans

10:16 AM on 11/04/2012

I heartily disagree- any lesson plan that involves restraining a child in any way without prior approval from parents approval from administration, and without other teachers present, is simply ludicrous, and in many states, illegal.

Craig 212

Tide goes in, tide goes out.

1122 Fans

10:25 AM on 11/04/2012

A blindfold isn't a restraint.

HUFFPOST SUPER USER

Sharelle Milo

132 Fans

01:49 PM on 11/04/2012

No the lesson plan isn't weird per say...but there are other unsettling things surrounding the situation. Also the Principal didn't follow protocol.

novabird

Lover of Life, Radical Centrist

645 Fans

09:03 AM on 11/04/2012

This might possibly make sense if the lesson was conducted in full view of the rest of the children, not with only one child in a classroom with the door closed. And do you have a handy explanation of why he asked the child to spread their legs?

Craig 212

Tide goes in, tide goes out.

1122 Fans

09:24 AM on 11/04/2012

Nope, you're right on both points. I didn't realize it was a "solo" lesson.

independentcynic1228

36 Fans

11:44 AM on 11/04/2012

This article doesn't say whether he was alone with her or not. Which was my question. if this occurred with other students present, then I could understand the principal being skeptical of the student's story. But if he was alone with her, why the hell would he be teaching her about "Helen Keller" anyway? That would be a redflag. And I have no idea what the spreading the legs would have.

Not defending the teacher in the least because he is obviously a pervert, but if it happened with other students present, then I could see the principal having some skepticism of this story. If he was alone with that girl, then she should have been on the phone with the cops that minute.

HUFFPOST SUPER USER

Barbara Lilly

Think in color-not black and white

398 Fans

10:14 AM on 11/04/2012

Any teacher with any common sense would never restrain a student-ever. Maybe for a specialized lesson they would send home permission slips to get parent permission for learning about the experience of the disabled. And yes it is innapropriate for a teacher to apply a bandage to a cut- that is what the school nurse is for. If a female teacher did anything like this to my child I would have their job in a heart beat. And my husband and sister are teachers, so believe me I know what kind of training and expectations teachers are given.

HUFFPOST SUPER USER

battlescar2012

Just trying to keep it real.

297 Fans

02:25 PM on 11/04/2012

Applying a bandage is nothing like using a bath sponge and inserting an unknown object into a blindfolded kid's mouth.

Craig 212

Tide goes in, tide goes out.

1122 Fans

03:38 PM on 11/04/2012

Using a bath sponge and inserting an unknown object into a blindfold's kids mouth are both actions that have a sexual component only because you are assigning one to them.

There is every possibility that either or both could occur during such a lesson plan, with no sexualization whatsoever.

HUFFPOST SUPER USER

battlescar2012

Just trying to keep it real.

297 Fans

03:31 AM on 11/05/2012

No. It makes no sense to do those things within the context of a lesson about Helen Keller.

Blindfolding, yes. Blindfolded while having something unknown put into your mouth, no. Blindfolded while someone is rubbing your feet and legs, no.

Craig 212

Tide goes in, tide goes out.

1122 Fans

06:26 AM on 11/05/2012

It makes perfect sense if you are attempting to demonstrate how a person's other senses intensify when one sense is lost.

HUFFPOST SUPER USER

battlescar2012

Just trying to keep it real.

297 Fans

04:55 PM on 11/05/2012

It doesn't make sense to overlook such things when one of your teachers has been accused of sexual abuse. In fact it's against the law.

If a child complained to you that they've been abused, and you accepted the teacher's lame excuse that rubbing their legs and inserting something in their mouth was part of the lesson, then you're not fit to be a principal either.

HUFFPOST SUPER USER

HellBank

Curve: The loveliest distance between two points.

1171 Fans

04:59 AM on 11/04/2012

She never heard any Helen Keller jokes I take it.

HUFFPOST SUPER USER

JJR60616

The Plan is...there is no plan!

1995 Fans

08:44 AM on 11/04/2012

Did you know that Helen Keller had a dollhouse in the backyard? Neither did she

How did Helen Keller meet her husband? On a blind date!

What do you call a tennis match between Helen Keller and Stevie Wonder? Endless Love

374662

399 Fans

04:18 AM on 11/04/2012

If the principal gave that story one nanosecond of consideration, then you have a principal unfit for the job.

And the bank robber was just testing the security of the bank. The murderer was just checking out the force of the weapon. Etc. Those excuses always work in court!

HUFFPOST COMMUNITY MODERATOR

CR46

spay/neuter and adopt

2025 Fans

03:12 AM on 11/04/2012

This is where the death penalty should be used, in any crime against a child.

HUFFPOST SUPER USER

UCBAlum

Mind-forged manacles and man-made tyrannies -

1211 Fans

06:07 AM on 11/04/2012

yeah, sorry, that's not going to fly.

Vengeance is not justice, and justice is not vengeance. That's not going to change...no matter how upset you are.

HUFFPOST SUPER USER

topkatnc

Give a stray cat or dog a chance .

1261 Fans

08:19 AM on 11/04/2012

It flies with me .

lessthanorly

117 Fans

05:10 PM on 11/05/2012

so, what do you suggest we do with all of these degenerates? REHABILITATE them?

HAHAHAHA .

death to all pedophiles and enablers. grow a backbone.

HUFFPOST SUPER USER

UCBAlum

Mind-forged manacles and man-made tyrannies

1211 Fans

09:26 PM on 11/05/2012

Backbone is the courage to move beyond vengeance and toward justice. My answer is life in prison. Why is that not good enough for you?

kazarule



101 Fans

06:47 AM on 11/04/2012

Unfortunately, the supreme court disagrees with you.

Welletsee

Trying hard to understand

208 Fans

08:12 AM on 11/04/2012

No, revenge is not an excuse to kill. Put this man on death row and he will cost the tax payers 10 times the amt. of just locking him away. The death penalty is very expensive and doesn't deter crime.

kazarule

101 Fans

09:02 AM on 11/04/2012

The death penalty shouldn't be used to deter crime; it should be used to remove serial offenders from society.

Welletsee

Trying hard to understand

208 Fans

12:29 PM on 11/04/2012

That is why we have prisons. For that very removal. No need to kill other than revenge .

kazarule

101 Fans

12:35 PM on 11/04/2012

I like revenge.

Jesse McGowen

19 Fans

10:59 AM on 11/04/2012

The way we use the death penalty hidden and tucked away from society doesnt deter crime no in that aspect you are correct, also in having to be the most humane way possible to execute the offenders makes it less effective. If the punishment is hidden from the masses then it has no effect as a form of punishment. Prisons and current versions of the death penalty hide from public view the consequences of committing a crime.

independentscynic1228

36 Fans

11:49 AM on 11/04/2012

That's why in the middle east they tend to have lower levels of crime because the response is pretty quick and public. Since we hide it here, it has no use as a deterrent. Now, on the other hand, if we instituted George Carlin's ideas of capital punishment (televised burning on the stake, frying someone in a big bowl of crisco, ect) I am sure our crime rate would go down real quick. But that would never happen and that is why I don't see why the states waste their time (and our money) trying these people for capital murder. You just end up spending more money because of all the appeals. Just go with first degree murder, lock them up for life and throw away the key. No appeals and less money wasted

Wellsetsee

Trying hard to understand

208 Fans

12:35 PM on 11/04/2012

So ... You not giving much to go on here... forgive me if I am wrong , but are you implying we bring back public executions to deter crime? Maybe a stockade in front of the court house? .....

Jesse McGowen

19 Fans

01:46 PM on 11/04/2012

Perhaps, perhaps not, but it is obvious that the current method of revolving door prisons and early release for hard core criminals due to over crowding isn't working. Maybe a complete overhaul of the system to include true rehabilitation programs that work to show first and second time and non-violent offenders there are non-criminal ways to live their lives. And if need be public executions that you still have the option of attending or not if it offends you. There are some people that are not "fits" for society and should be removed and not simply just locked away in the corner. The entire system is broken from the courts to the punishments, public humiliation(stockades) is not cruel or inhumane and has shown to be quiet effective throughout history. the evidence for a death penalty being effective is there as long as the american justice system isnt counted because of our methodology involved. Hate going from one extreme to the other as this seems to have gone and sadly it is easier to effect change in our country to go from an extreme to another and not to do the intelegent thing and rebuild the system.

Anneripp

555 Fans

02:06 AM on 11/04/2012

CA law didn't give the principal a choice. She must make a report to child protective services if a report has been made that raises the suggestion of abuse. It's the law.

fratricide08

Proud "Firebagger"

578 Fans

02:34 AM on 11/04/2012

After reading her notes on the incident I don't see how she can claim she didn't have reasonable suspicion. The lawsuit being filed against the abuser, her, the vice-principal and 50 others including the school district makes a lot of claims that if true are pretty awful. Even if she didn't have suspicion on this one, she HAD to have reasonable suspicion at some point. The suit also claims that school district's policy was intentionally not written down and that they told their teacher's and principals to investigate not report.

Anneripp

555 Fans

11:11 AM on 11/04/2012

It is state law. Everyone who works at a school knows it is state law.

HUFFPOST SUPER USER

CabCurious

let's be honest

1612 Fans

07:45 AM on 11/04/2012

According to this article, the parent seems to be the source of the initial flag. The principal took it seriously enough to meet with the parent and the student. If she came out of that meeting with even the SLIGHTEST sense of there being a potential incident, she absolutely had to report it.

Welletsee

Trying hard to understand

208 Fans

08:13 AM on 11/04/2012

This comment makes more sense than others of yours I have read.

Anneripp

555 Fans

11:10 AM on 11/04/2012

It didn't matter whether she had suspicions or not. Once the report of questionable behavior was made, she was legally bound to report it. End of story.

I've been in that position myself. It's never easy to do. Who wants to believe something like that about a teacher you work with? And if can have terrible repercussions if it isn't true. Nobody wants to put a fellow teacher through that.

In my case, it wasn't true of the teacher, and child protective services did a really discreet job of investigating.

YakittyGirl

Pro deo et patria

1165 Fans

01:58 AM on 11/04/2012

"...she determined through her own investigation that no crime had been committed..."

I don't believe that she acted correctly. I think she had the duty to report the possible abuse and let the police do the investigating.

SolarPowerGuy

Ph.D., Immunology; Solar power @ home; Green Party

953 Fans

01:23 AM on 11/04/2012

The article agrees with you, that's the law.

fratricide08

Proud "Firebagger"

578 Fans

01:40 AM on 11/04/2012

The law is that you're to report if you have reasonable suspicion of abuse. She claims that neither the girl nor the girl's mother indicated abuse but told her that it was odd behavior. Abusers are very, very, good at convincing and manipulating people and it's said he had a whole explanation of how it coincided with the lesson plan and explained his behavior. I don't know whether or not the mother's or girl's testimony backs her up or not on whether or not anything abusive was

indicated to her but if it does then I think it's more than possible that she got snowed by an abuser.

HUFFPOST SUPER USER

Marcin A Mazurek

You live and learn. At any rate, you live. - D.A

209 Fans

01:44 AM on 11/04/2012

At the same time, people tend to think that internal investigation is the most effective - we found that to be horrendously wrong with the case of Penn State.

fratricide08

Proud "Firebagger"

578 Fans

01:59 AM on 11/04/2012

Just saw her notes on what happened and the principal's own notes look pretty damaging for her either way. At BEST she's a complete fool who doesn't know the signs when she sees them and thus should not be in charge of overseeing teachers and students. Regardless, no way should she be a principal.

HUFFPOST SUPER USER

realitytrumpsbull

two 'alves of coconut!

1831 Fans

02:53 PM on 11/03/2012

Boning and fondling the students...nothing new in education-land, but they do need to work on school policy for instructors. If it ever gets to where the parents can directly sue the offending teacher/school system, some schools could end up closing and being turned into homeless shelters etc.

ron2win

Gop-blood donor,I give till i bleed.

744 Fans

07:13 AM on 11/04/2012

As well as they should be !

HUFFPOST SUPER USER

Stickman125

70 Fans

07:41 AM on 11/04/2012

You can sue offending teacher/school systems, it happens all the time. But people like to run to the media first.

Welletsee

Trying hard to understand

208 Fans

08:16 AM on 11/04/2012

Well , no compromise in defense of our children. You are talking about tort reform... Another issue entirely.


Calif principal testifies at teacher's abuse trial - ContraCostaTimes.com [http://www.contracostatimes.com/ci\\_21915320/calif-principal-testifi...](http://www.contracostatimes.com/ci_21915320/calif-principal-testifi...)

Sign In | Register | Newsletters

Mobile | Mobile Alerts | RSS

News Publications My Town Sports Business Entertainment Living Columns Opinion Help

Site ☐ Web Search by YAHOO!

 Walnut Creek, C

In The News: Zuckerberg privacy problem | Russia to bar U.S. adoptions | Marvell patent ruling | Gun owners' addresses put

0  
  Sign Up to see what your friends recommend.

0

## Calif principal testifies at teacher's abuse trial

The Associated Press

Posted: 11/02/2012 01:19:30 PM PDT

Updated: 11/02/2012 01:19:30 PM PDT

SAN JOSE, Calif.—A former California principal accused of failing to report the suspected sexual abuse of a young student at her school tearfully told jurors that she believed a teacher when he told her the reason he had blindfolded the girl and put something in her mouth was to teach her about Helen Keller.

Lyn Vijayendran, onetime principal of San Jose's O.B. Whaley Elementary School, testified Thursday that the second-grade teacher appeared forthright and "looked me right in the eye" when he explained that what had happened was part of a classroom lesson.

Santa Clara County prosecutors have charged Vijayendran, 36, with failure to report child abuse, a misdemeanor. The law requires principals, teachers and others who come into contact with children to report suspected child abuse.

The charge came after Vijayendran was told last fall of a possible molestation and she determined through her own investigation that no crime had been committed, authorities said. Police later found four more girls at the school that were believed to have been molested.

Vijayendran has since been reassigned. She could serve up to six months in jail if convicted, the San Jose Mercury News reported (<http://bit.ly/Pq42P5>).

The teacher, 35-year-old Craig Chandler, was arrested in January and has been charged with five counts of lewd and lascivious acts on a child under the age of 14, involving five children. Authorities say a crime lab found his semen on a classroom chair.

Advertisement

NEXT ARTICLE IN NEWS

**Biz Break: Wall Street whipsaws with 'fiscal cliff' discussions, Apple reveals executives' compensation**

» Continue to article...

SUNNYVALE  
VIA

Sign the drive

GotDailyDeals

732

Calif principal testifies at teacher's abuse trial - ContraCostaTimes.com [http://www.contracostatimes.com/ci\\_21915320/calif-principal-testifi...](http://www.contracostatimes.com/ci_21915320/calif-principal-testifi...)

water in her mouth.

Chandler also said his classroom door was open, though the student said it was closed, Vijayendran said.

"He said students learned better by doing," she said. "He was very convincing."

Vijayendran also testified she was convinced the student's demeanor was completely out of character for someone who had been molested.

"She had a big smile on her face," Vijayendran said. "She was her normal self, very talkative, the same as if she was talking about what she'd perform at the talent show."

Vijayendran also said that during an interview, the girl and her mother didn't contend that the incident was sexual in nature—only that it was strange. The mother is a legal immigrant.

Vijayendran added she did what she thought was right at the time. "Now, looking back, I have a different lens," she said.

During her cross-examination, Vijayendran admitted she was worried before speaking to Chandler about the sexually suggestive aspects of his behavior toward the girl.

Among other concerns, the child reported the teacher told her to "open her two legs."

"If someone said that to you in a grocery store line, you'd slap him, wouldn't you?" prosecutor Alison Filo asked.

Vijayendran agreed, saying: "You'd have to be crazy not to think that (his behavior could be sexual)."

The jury could get the case as early as Friday.

Information from: San Jose (Calif.) Mercury News, <http://www.mercurynews.com>

Reprint BOOKMARK Print Email Font Resize Return to Top

## Recommended for You

- ▶ Roadshow: Barricades for I-680 toll lanes not...
- ▶ Police: Pittsburg resident charged with...
- ▶ Oakland brings in William J. Bratton to help...
- ▶ UC Berkeley law students charged in beheading...
- ▶ Marvell slammed with \$1.2 billion patent...

## NEXT ARTICLE IN NEWS

**Biz Break: Wall Street whipsaws with 'fiscal cliff' discussions, Apple reveals executives' compensation**

» Continue to article...

SUNNYVALE  
VW

Signi Hendriks

GotDailyDeals

733

Deliberations Begin In Trial Of SJ Principal Accused Of Not Reporti... <http://sanfrancisco.cbslocal.com/2012/11/02/deliberations-begin-in-tr...>

## Deliberations Begin In Trial Of SJ Principal Accused Of Not Reporting Sex Abuse

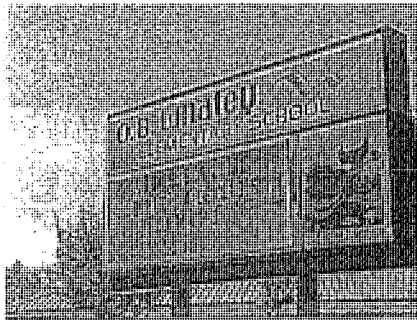
November 2, 2012 12:29 PM

Like 9

3

1

View Comments



O.B. Whaley Elementary School in San Jose. (CBS)

### Filed Under

Local, News

### Related Tags

Craig Chandler, Crime, Lyn Vijayendran, O.B. Whaley Elementary School, Sex abuse, Sexual abuse, Whaley Elementary

SAN JOSE (CBS/AP) — Jurors began deliberating Friday morning in the trial of a San Jose elementary school principal accused of failing to report the suspected sexual abuse of a child by a teacher.

Lyn Vijayendran, the former principal of San Jose's O.B. Whaley Elementary School, said she believed the teacher's explanation about what was allegedly going on in his classroom.

Vijayendran testified at her trial on Thursday that teacher Craig Chandler appeared forthright when he told her an incident during which he allegedly blindfolded a second-grade girl and put something in her mouth was part of a lesson plan about Helen Keller.



35-year-old Craig Chandler, a teacher at O.B. Whaley Elementary School in San Jose, is accused of aggravated sexual assault of a child. (San Jose Police Department)

had a "different lens" on it looking back.

Chandler is facing charges of committing lewd and lascivious acts on five children. A crime lab allegedly found his semen on a classroom chair.

A tearful Vijayendran said she did what she thought was right at the time, but



### MORE FROM

SF Health Office To...

5 Arrested In M And Gagged...

Fremont Cyclist Rock

### FROM AROUND

Deborah Norvill Arthritis (Lifes)

Nurse Jacintha by Her... (E! O)

Halle Berry Los

### VIDEO NEWS



Wednesday

(Copyright 2012 by CBS San Francisco. All Rights Reserved. This material may not be published, broadcast, rewritten, or redistributed.)

Calif. principal takes stand in sex abuse case - ContraCostaTimes.com [http://www.contracostimes.com/ci\\_21914237/calif-principal-takes-...](http://www.contracostimes.com/ci_21914237/calif-principal-takes-...)

Sign In | Register | Newsletters

Part of the Bay Area News Group

Mobile | Mobile Alerts | RSS

News Publications My Town Sports Business Entertainment Living Columns Opinion Help

Jobs Cars Homes Classifieds Shop

Web Search by YAHOO!

Walnut Creek, CA Now: 54°F High: 54°F Low: 37°F city or zip

In The News: Zuckerberg privacy problem | Russia to bar U.S. adoptions | Marvell patent ruling | Gun owners' addresses published | Pro Bowl rosters | Candy cigarette warning

Advertisement

Recommend Send Sign Up to see what your friends recommend.

Share Tweet 0

## Calif. principal takes stand in sex abuse case

The Associated Press  
Posted: 11/02/2012 10:28:38 AM PDT  
Updated: 11/02/2012 10:28:38 AM PDT

SAN JOSE, Calif.—The California principal accused of failing to report the suspected sexual abuse of a child by a teacher says she believed the teacher's explanation about what was allegedly going on in his classroom.

Lyn Vijayendran, the former principal of San Jose's O.B. Whaley Elementary School, testified at her trial on Thursday that teacher Craig Chandler appeared forthright when he told her an incident during which he allegedly blindfolded a second-grade girl and put something in her mouth was part of a lesson plan about Helen Keller.

Chandler is facing charges of committing lewd and lascivious acts on five children. A crime lab allegedly found his semen on a classroom chair.

According to the San Jose Mercury News (<http://bit.ly/Pq42P5>), a tearful Vijayendran said she did what she thought was right at the time, but had a "different lens" on it looking back.

Information from: San Jose (Calif.) Mercury News, <http://www.mercurynews.com>

Advertisement

0

Tweet

0

Like

0

Reprint

Email Font Resize Return to Top

**bayarea**

Find:

In:  East Bay

Buy One 2nd 1/2 off from Sincerely To Go  
Pizza of Concord

Great Specials! from Doors on Demand of  
Fremont

Dining | Ads/coupons | Claim Your Listing

Most Viewed Most E-Mailed

(From the last 12 hours)

1. Marvell slammed with \$1.2 billion patent-infringement judgment...
2. Walnut Creek police investigate fatal officer-involved shooting
3. Richmond woman killed in crash on San Pablo Dam Road
4. Three Brentwood homes evacuated due to natural gas leak
5. Bay Area's tech-led boom is broadening
6. Oakland Raiders shut out in Pro Bowl selections

NEXT ARTICLE IN NEWS

Biz Break: Wall Street whipsaws with 'fiscal cliff' discussions, Apple reveals executives' compensation

» Continue to article...

SUNNYVALE VW Sign the drive Event

Get Daily Deals

25,000 lights to turn Bay Bridge span into giant rig

735



San Jose Mercury News » Thursday, November 1, 2012

CHINA'S FOREIGN POLICY

## Principal's trial begins in compelling fashion

**Excerpt: accused of not reporting reader**

**W. Tracey Ruml**  
Associate Professor of Economics  
University of Maryland - College Park  
College Park, Maryland 20742  
301/405-1100  
Ruml@econ.umd.edu

My research interests include monetary policy, international trade, and the effects of government policy on the labor market. I am currently working on a paper on the effects of government policy on the labor market. I am also interested in the effects of government policy on the labor market.

1. NAME \_\_\_\_\_  
 2. DATE \_\_\_\_\_  
 3. TIME \_\_\_\_\_  
 4. PLACE \_\_\_\_\_  
 5. REASON \_\_\_\_\_  
 6. WITNESSES \_\_\_\_\_  
 7. SIGNATURE \_\_\_\_\_  
 8. INITIALS \_\_\_\_\_  
 9. REMARKS \_\_\_\_\_  
 10. DATE \_\_\_\_\_  
 11. TIME \_\_\_\_\_  
 12. PLACE \_\_\_\_\_  
 13. REASON \_\_\_\_\_  
 14. WITNESSES \_\_\_\_\_  
 15. SIGNATURE \_\_\_\_\_  
 16. INITIALS \_\_\_\_\_  
 17. REMARKS \_\_\_\_\_  
 18. DATE \_\_\_\_\_  
 19. TIME \_\_\_\_\_  
 20. PLACE \_\_\_\_\_  
 21. REASON \_\_\_\_\_  
 22. WITNESSES \_\_\_\_\_  
 23. SIGNATURE \_\_\_\_\_  
 24. INITIALS \_\_\_\_\_  
 25. REMARKS \_\_\_\_\_  
 26. DATE \_\_\_\_\_  
 27. TIME \_\_\_\_\_  
 28. PLACE \_\_\_\_\_  
 29. REASON \_\_\_\_\_  
 30. WITNESSES \_\_\_\_\_  
 31. SIGNATURE \_\_\_\_\_  
 32. INITIALS \_\_\_\_\_  
 33. REMARKS \_\_\_\_\_  
 34. DATE \_\_\_\_\_  
 35. TIME \_\_\_\_\_  
 36. PLACE \_\_\_\_\_  
 37. REASON \_\_\_\_\_  
 38. WITNESSES \_\_\_\_\_  
 39. SIGNATURE \_\_\_\_\_  
 40. INITIALS \_\_\_\_\_  
 41. REMARKS \_\_\_\_\_  
 42. DATE \_\_\_\_\_  
 43. TIME \_\_\_\_\_  
 44. PLACE \_\_\_\_\_  
 45. REASON \_\_\_\_\_  
 46. WITNESSES \_\_\_\_\_  
 47. SIGNATURE \_\_\_\_\_  
 48. INITIALS \_\_\_\_\_  
 49. REMARKS \_\_\_\_\_  
 50. DATE \_\_\_\_\_  
 51. TIME \_\_\_\_\_  
 52. PLACE \_\_\_\_\_  
 53. REASON \_\_\_\_\_  
 54. WITNESSES \_\_\_\_\_  
 55. SIGNATURE \_\_\_\_\_  
 56. INITIALS \_\_\_\_\_  
 57. REMARKS \_\_\_\_\_  
 58. DATE \_\_\_\_\_  
 59. TIME \_\_\_\_\_  
 60. PLACE \_\_\_\_\_  
 61. REASON \_\_\_\_\_  
 62. WITNESSES \_\_\_\_\_  
 63. SIGNATURE \_\_\_\_\_  
 64. INITIALS \_\_\_\_\_  
 65. REMARKS \_\_\_\_\_  
 66. DATE \_\_\_\_\_  
 67. TIME \_\_\_\_\_  
 68. PLACE \_\_\_\_\_  
 69. REASON \_\_\_\_\_  
 70. WITNESSES \_\_\_\_\_  
 71. SIGNATURE \_\_\_\_\_  
 72. INITIALS \_\_\_\_\_  
 73. REMARKS \_\_\_\_\_  
 74. DATE \_\_\_\_\_  
 75. TIME \_\_\_\_\_  
 76. PLACE \_\_\_\_\_  
 77. REASON \_\_\_\_\_  
 78. WITNESSES \_\_\_\_\_  
 79. SIGNATURE \_\_\_\_\_  
 80. INITIALS \_\_\_\_\_  
 81. REMARKS \_\_\_\_\_  
 82. DATE \_\_\_\_\_  
 83. TIME \_\_\_\_\_  
 84. PLACE \_\_\_\_\_  
 85. REASON \_\_\_\_\_  
 86. WITNESSES \_\_\_\_\_  
 87. SIGNATURE \_\_\_\_\_  
 88. INITIALS \_\_\_\_\_  
 89. REMARKS \_\_\_\_\_  
 90. DATE \_\_\_\_\_  
 91. TIME \_\_\_\_\_  
 92. PLACE \_\_\_\_\_  
 93. REASON \_\_\_\_\_  
 94. WITNESSES \_\_\_\_\_  
 95. SIGNATURE \_\_\_\_\_  
 96. INITIALS \_\_\_\_\_  
 97. REMARKS \_\_\_\_\_  
 98. DATE \_\_\_\_\_  
 99. TIME \_\_\_\_\_  
 100. PLACE \_\_\_\_\_  
 101. REASON \_\_\_\_\_  
 102. WITNESSES \_\_\_\_\_  
 103. SIGNATURE \_\_\_\_\_  
 104. INITIALS \_\_\_\_\_  
 105. REMARKS \_\_\_\_\_  
 106. DATE \_\_\_\_\_  
 107. TIME \_\_\_\_\_  
 108. PLACE \_\_\_\_\_  
 109. REASON \_\_\_\_\_  
 110. WITNESSES \_\_\_\_\_  
 111. SIGNATURE \_\_\_\_\_  
 112. INITIALS \_\_\_\_\_  
 113. REMARKS \_\_\_\_\_  
 114. DATE \_\_\_\_\_  
 115. TIME \_\_\_\_\_  
 116. PLACE \_\_\_\_\_  
 117. REASON \_\_\_\_\_  
 118. WITNESSES \_\_\_\_\_  
 119. SIGNATURE \_\_\_\_\_  
 120. INITIALS \_\_\_\_\_  
 121. REMARKS \_\_\_\_\_  
 122. DATE \_\_\_\_\_  
 123. TIME \_\_\_\_\_  
 124. PLACE \_\_\_\_\_  
 125. REASON \_\_\_\_\_  
 126. WITNESSES \_\_\_\_\_  
 127. SIGNATURE \_\_\_\_\_  
 128. INITIALS \_\_\_\_\_  
 129. REMARKS \_\_\_\_\_  
 130. DATE \_\_\_\_\_  
 131. TIME \_\_\_\_\_  
 132. PLACE \_\_\_\_\_  
 133. REASON \_\_\_\_\_  
 134. WITNESSES \_\_\_\_\_  
 135. SIGNATURE \_\_\_\_\_  
 136. INITIALS \_\_\_\_\_  
 137. REMARKS \_\_\_\_\_  
 138. DATE \_\_\_\_\_  
 139. TIME \_\_\_\_\_  
 140. PLACE \_\_\_\_\_  
 141. REASON \_\_\_\_\_  
 142. WITNESSES \_\_\_\_\_  
 143. SIGNATURE \_\_\_\_\_  
 144. INITIALS \_\_\_\_\_  
 145. REMARKS \_\_\_\_\_  
 146. DATE \_\_\_\_\_  
 147. TIME \_\_\_\_\_  
 148. PLACE \_\_\_\_\_  
 149. REASON \_\_\_\_\_  
 150. WITNESSES \_\_\_\_\_  
 151. SIGNATURE \_\_\_\_\_  
 152. INITIALS \_\_\_\_\_  
 153. REMARKS \_\_\_\_\_  
 154. DATE \_\_\_\_\_  
 155. TIME \_\_\_\_\_  
 156. PLACE \_\_\_\_\_  
 157. REASON \_\_\_\_\_  
 158. WITNESSES \_\_\_\_\_  
 159. SIGNATURE \_\_\_\_\_  
 160. INITIALS \_\_\_\_\_  
 161. REMARKS \_\_\_\_\_  
 162. DATE \_\_\_\_\_  
 163. TIME \_\_\_\_\_  
 164. PLACE \_\_\_\_\_  
 165. REASON \_\_\_\_\_  
 166. WITNESSES \_\_\_\_\_  
 167. SIGNATURE \_\_\_\_\_  
 168. INITIALS \_\_\_\_\_  
 169. REMARKS \_\_\_\_\_  
 170. DATE \_\_\_\_\_  
 171. TIME \_\_\_\_\_  
 172. PLACE \_\_\_\_\_  
 173. REASON \_\_\_\_\_  
 174. WITNESSES \_\_\_\_\_  
 175. SIGNATURE \_\_\_\_\_  
 176. INITIALS \_\_\_\_\_  
 177. REMARKS \_\_\_\_\_  
 178. DATE \_\_\_\_\_  
 179. TIME \_\_\_\_\_  
 180. PLACE \_\_\_\_\_  
 181. REASON \_\_\_\_\_  
 182. WITNESSES \_\_\_\_\_  
 183. SIGNATURE \_\_\_\_\_  
 184. INITIALS \_\_\_\_\_  
 185. REMARKS \_\_\_\_\_  
 186. DATE \_\_\_\_\_  
 187. TIME \_\_\_\_\_  
 188. PLACE \_\_\_\_\_  
 189. REASON \_\_\_\_\_  
 190. WITNESSES \_\_\_\_\_  
 191. SIGNATURE \_\_\_\_\_  
 192. INITIALS \_\_\_\_\_  
 193. REMARKS \_\_\_\_\_  
 194. DATE \_\_\_\_\_  
 195. TIME \_\_\_\_\_  
 196. PLACE \_\_\_\_\_  
 197. REASON \_\_\_\_\_  
 198. WITNESSES \_\_\_\_\_  
 199. SIGNATURE \_\_\_\_\_  
 200. INITIALS \_\_\_\_\_  
 201. REMARKS \_\_\_\_\_  
 202. DATE \_\_\_\_\_  
 203. TIME \_\_\_\_\_  
 204. PLACE \_\_\_\_\_  
 205. REASON \_\_\_\_\_  
 206. WITNESSES \_\_\_\_\_  
 207. SIGNATURE \_\_\_\_\_  
 208. INITIALS \_\_\_\_\_  
 209. REMARKS \_\_\_\_\_  
 210. DATE \_\_\_\_\_  
 211. TIME \_\_\_\_\_  
 212. PLACE \_\_\_\_\_  
 213. REASON \_\_\_\_\_  
 214. WITNESSES \_\_\_\_\_  
 215. SIGNATURE \_\_\_\_\_  
 216. INITIALS \_\_\_\_\_  
 217. REMARKS \_\_\_\_\_  
 218. DATE \_\_\_\_\_  
 219. TIME \_\_\_\_\_  
 220. PLACE \_\_\_\_\_

[illegible]

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

# PRINCIPAL

## Principal

Continued from Page 1

ecutor Alison Filo told the jury of five women and seven men that the O.B. Whaley Elementary School principal broke the law by failing to report to police what anyone with common sense would reasonably suspect from the girl's account. The principal should have realized that teacher Craig Chandler may have sexually molested the child.



Chandler

Filo said Chandler was arrested a month later on charges of committing lewd and lascivious acts on five children and remains in jail pending trial.

It is only the second time in two decades that an educator in the county has faced charges for allegedly shirking their legal obligation as one of 42 mandatory reporters who range from certain school employees to coaches. Vijayendran, 36, has pleaded not guilty.

Filo was careful Wednesday not to demonize the principal, contrasting her with administrators at Penn State who covered up football coach Jerry Sandusky's pedophilia. But without being explicit, Filo said the failure to report had extremely serious consequences. Chandler is suspected of molesting another little girl after the first child and her mother met with Vijayendran. Tests by the Santa Clara County crime lab found Chandler's semen on a blue chair in his classroom.

"Ms. V. was not trying to save the football team," Filo said. "There is no evidence she's a villain. She's a well-meaning woman who made a terrible, terrible mistake in judgment that a reasonable person would not make."

### Detailed account

But in an equally compelling opening statement, Vijayendran's attorney, Eric Gefron, said no one involved — not the principal, the girl's mother or the head of human resources with whom Vijayendran consulted — suspected anything sexual at the time.

If the principal is convicted, she faces up to six months in jail, though experts say it is more likely she'd be put on probation.

On Wednesday, Filo presented her case first, and the strongest evidence she offered against the principal was contained in the handwritten notes the educator took in October 2011 during her conversation with the girl and her mother. Vijayendran gave the notes to police, who may not have discovered them otherwise.

The notes include the following account: "The girl was told during recess that Chandler needed her. When she went to the classroom alone, he took out a blue blindfold and told her to cover her eyes and lie down on the floor. Before she complied, she saw him take out a blue blanket, which he put over her head. He removed her silver shoes. She felt something gooey on her feet, which she thought may have been his tongue."

He lifted the blanket up to her nose and put something gooey in her

mouth. He moved her head around. She felt salty water in her mouth and it dripped onto her jacket. He opened the door and put a piece of Wonka candy in her mouth.

Filo contends he duped the child into performing a sex act.

But defense attorney Gefron suggested it was anything but obvious at the time.

The case cannot be judged in hindsight, he argued, comparing it to someone claiming they knew the San Francisco Giants would make it to the World Series and emerge victorious. "Look not at what we know now, but at what she knew then."

Gefron drove home that the young principal was provided with "zero" training by the Evergreen Elementary School District during the 13 years she's worked there on how to judge reports from students and parents. She has been reassigned to the district office as coordinator of teacher support programs.

Gefron also said the child didn't act like any other child abuse victim. Vijayendran had never encountered, she wasn't tearful, emotional or evasive.

And in a key defense argument that may persuade jurors that Vijayendran was merely naive, Gefron pointed out that Chandler explained the incident to the principal calmly and even offered to meet with the child's parents to explain. The teacher told the principal he called the girl into the classroom to prepare a lesson on Helen Keller, which he had been using for years and that the "instructional goal" was to deprive participating students of sight. He said he used a bath sponge on her foot and legs and put a bottle containing salty water into her mouth. All the while, his classroom door was open, he told Vijayendran.

It was "a detailed, devils-well-thought-out, well-prepared story," he concocted that explained everything," Gefron said. "He was ready."

### Another incident

Before Vijayendran became principal, Chandler had been reprimanded for sexually harassing a teacher in the mid-2000s, according to police reports in this case. The female teacher asked for a transfer as a result, which the district granted.

The teacher said Chandler acted inappropriately on several occasions, including one incident when he came up behind her and put his hands on her hips, according to the reports.

Another time, she said, he came into her classroom, closed the door and asked her if he could take pictures of her toes for a massage therapy class he was taking and if he could massage her feet, then again walked up behind her and put his hands on her hips.

The teacher also said Chandler complained to her about his sex life and, on a different occasion, told her he'd heard she was getting her breasts enhanced. When she denied it, she said he told her he was glad because she didn't need one.

Filo concluded her case by mid-afternoon. The defense begins its case Thursday, when witnesses are expected to include the head of human resources, Carole Schmitt, whom Gefron said "directed, not advised" the principal what to do.


At times tearful, San Jose principal testifies in her own defense - Con... [http://www.contracostatimes.com/ci\\_21909243/at-times-tearful-san-j...](http://www.contracostatimes.com/ci_21909243/at-times-tearful-san-j...)

Sign In | Register | Newsletters

Mobile | Mobile Alerts | RSS

News Publications My Town Sports Business Entertainment Living Columns Opinion Help

Site ☐ Web Search by YAHOO!

 Walnut Creek, CA

In The News: Zuckerberg privacy problem | Russia to bar U.S. adoptions | Marvell patent ruling | Gun owners' addresses put

0

Share

Tweet

0

Recommend

Send

Sign Up to see what your friends recommend.

## At times tearful, San Jose principal testifies in her own defense

By Tracey Kaplan [tkaplan@mercurynews.com](mailto:tkaplan@mercurynews.com)

Posted: 11/01/2012 06:37:07 PM PDT

Updated: 11/01/2012 06:51:07 PM PDT

At times tearing up, the former San Jose elementary school principal on trial for failing to report suspected child sexual abuse tried to explain Thursday what in hindsight seems unimaginable -- why she didn't call police to report that a teacher had blindfolded an 8-year-old student with no one else there, made her lie down on the classroom floor, touched her feet with something that felt like a tongue, inserted something gooey in her mouth and then wiggled her head around til she tasted a salty liquid.

"It was my job to keep those kids safe," Lyn Vijayendran testified in a choked voice. "But on that day, I did what I thought was right."

"Now, looking back, I have a different lens."

For more than two hours Thursday, the former 36-year-old principal of O.B. Whaley Elementary struggled to convey why she accepted teacher Craig Chandler's explanation for his disturbing behavior -- that it was part of a lesson plan about Helen Keller.

"He was very forthright," she said, once again tearing up. "He looked me right in the eye."

For only the second time in two decades, Santa Clara County prosecutors have charged a local educator with shirking their legal obligation to call the authorities when they have a reasonable suspicion that a child has been abused.

Prosecutors have taken the rare step of making an example out of Vijayendran primarily because her alleged lack of judgment in October 2011 had devastating consequences. Another

child reported being molested in a similar fashion by the same teacher about three months later.

Advertisement

Chandler was subsequently arrested in January and charged with committing lewd and lascivious

SUNNYVALE  
CA

Sign the drive

Got Daily Deals

738



At times tearful, San Jose principal testifies in her own defense - Con... [http://www.conracoatimes.com/ci\\_21909243/at-times-tearful-san-j...](http://www.conracoatimes.com/ci_21909243/at-times-tearful-san-j...)

35-year-old teacher, in jail pending his trial, faces a maximum sentence of 75 years to life if he is convicted.

If Vijayendran is convicted of her misdemeanor charge, she could serve up to six months in jail, though it is more likely she'd be put on probation. She has been reassigned to the district office as coordinator of teacher support programs.

On Thursday, under gentle questioning by her attorney Eric Geffon, the former principal said she was lulled by several factors into believing the teacher had merely done something dumb.

One reason Vijayendran was convinced was the child's demeanor was completely out of character for someone who had been molested.

"She had a big smile on her face," she told the jury of five women and seven men. "She was her normal self, very

talkative, the same as if she was talking about what she'd perform at the talent show."

The girl and her mother, who were both interviewed by the principal, didn't contend the incident had been sexual in nature, she said, merely that it had been strange. The mother is a legal immigrant.

Vijayendran also hadn't gotten any training from Evergreen Elementary School District on how to interview suspected victims and other aspects of her responsibilities as a mandated reporter.

She also said she interviewed the teacher because she was told to do so by the district's human resources director, Carole Schmitt. In hindsight, that decision gave Chandler the opportunity to try to get rid of any incriminating evidence.

Her interview with Chandler was very persuasive, Vijayendran said. He told her that he called the girl into the classroom to prepare a lesson on Helen Keller, which he had been using for years. He said the "instructional goal" was to deprive participating students of sight. He said he used a bath sponge on her foot and legs, and put a bottle containing salty water into her mouth. All the while, his classroom door was open, he told Vijayendran, though the child said the door was closed.

"He said students learned better by doing," she said. "He was very convincing."

But under cross-examination by prosecutor Alison Filo, the former principal admitted she was worried before she spoke to Chandler about the sexually suggestive aspects of his behavior toward the girl.

Among other concerns, the child reported the teacher told her to "open her two legs."

"If someone said that to you in a grocery store line, you'd slap him, wouldn't you?" Filo commented.

"You'd have to be crazy not to think that (his behavior could be sexual)," Vijayendran agreed.

That admission contradicts Geffon's insistence that it never occurred to anyone -- the principal, mother or human resources director -- that the strange encounter was sexual.

Vijayendran also apparently didn't ask Chandler what wiggling the child's head while something was in her mouth had to do with Helen Keller. And she didn't query other administrators if it was true they knew all about the lesson plan and were fine with it, as Chandler claimed.

Schmitt, the district's director of human resources, also didn't help Vijayendran's case much, though the jury may wind up sympathizing with the former principal. The administrator testified she told Vijayendran to interview Chandler, but all she knew at the time were a few scant details. Vijayendran merely told her that Chandler put something "salty, warm and hard" in the child's mouth. Schmitt said she hadn't received any training on reporting child sexual abuse for 17 years.

But Schmitt said it was Vijayendran, not her, who decided how to handle the incident. After the interviews, Vijayendran called Schmitt and without sharing many details said she'd deny the mother's request and transfer the child to a

SUNNYVALE

Sign the drive Event

Got Daily Deals

739

At times tearful, San Jose principal testifies in her own defense - Con... [http://www.contracostatimes.com/ci\\_21909243/at-times-tearful-san-j...](http://www.contracostatimes.com/ci_21909243/at-times-tearful-san-j...)

"The only direction I gave her," Schmitt said, "was talk to the teacher and talk to the child."

The case could go to the jury as soon as Friday afternoon after the judge instructs the jury and the lawyers make their closing arguments.

Follow Tracey Kaplan at 408-278-3482. Follow her at [Twitter.com/tkaplanreport](https://twitter.com/tkaplanreport).

Reprint BOOKMARK Print Email Font Resize Return to Top



### New Rule for California Drivers

(Dec 2012) San Jose - If you drive in California you better read this... [Learn More »](#)

Insurance.Comparisons.org

### Recommended for You

- ▶ Oakland Tribune editorial: Troubling new...
- ▶ Stanford could lose stars to NFL draft
- ▶ Piedmont: Woman discovers burglar inside home
- ▶ Housing project on Buena Vista Avenue before...
- ▶ Exploratorium closes Jan. 2, begins move to...
- ▶ UC Berkeley law students charged in beheading...

— SPONSORED LINK —

Two US Drone Strikes in Yemen for Christmas! · Global Voices  
(From DailyMe.com)

Powered by  
newstogram

• FAQ: Article commenting how-tos and tips

Recommend

Sign Up to see what your friends recommend.



Add a comment...

Comment using...

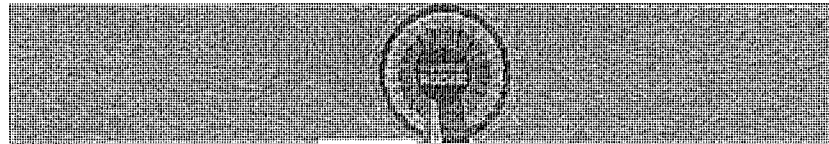
Facebook social plugin

### Related Results

Vote Yes on Measure J to repair and modernize local schools in Alum Rock

Are You A Single Mom? Access to Low Income Services Get Financial Resources, Help, Aid

affordable housing Find a Rental for Your Next Home. Browse Listings in all 50 states.



SUNNYVALE  
yw

Sign in drive

GotDailyDeals

740



• Paul Sprague · Top Commenter

In this case, the principal as a mandated reporter, was obligated to report the incident to either Child Protective Services (CPS) or local police under California Penal Code Sections 11165 through 11174.3. Additionally, the principal should have been prepared for such an incident through policies that are already in place by the district and mandated laws by the State of California. If Vijayendren was confused or unclear as to what to do in this instance, she knew that all it would take is one phone call to CPS or San Jose P.D. If you would like to find out what the laws are, go to [www.cdss.ca.gov/cdssweb/](http://www.cdss.ca.gov/cdssweb/).

That's all Ms. Vijayendren had to do and she could have saved herself much grief and guilt.

[Reply](#) · [8](#) · [Like](#) · [Follow Post](#) · [November 2 at 7:59am](#)



• Miles Coatsee · Top Commenter · Owner at Law Offices of Miles J. Coatsee, Esq.

According to the article, Ms. Vijayendren didn't receive any training on her obligations as a mandated reporter.

[Reply](#) · [Like](#) · November 9 at 1:02am.



• Jennifer Torres Purifoy · Top Commenter

What an idiot you are suppose to report it and let cps take it from there.

[Reply](#) · [8](#) · [Like](#) · [Follow Post](#) · [November 2 at 1:55am](#)



• Rudy Porras · San Jose, California

True true

[Reply](#) · [Like](#) · November 3 at 4:21pm



[Priscilla Wenceslao](#) · [Subscribe](#)

That teacher is gross! I hope he serves time for his nasty crime. And why would a Principal authorize such a lesson plan..... DISGUSTING!!!!

[Reply](#) · [Like](#) · November 5 at 8:08am



[Miles Coatsee](#) · Top Commenter · [Owner](#) at [Law Offices of Miles J. Coatsee, Esq.](#)

She DIDN'T authorize the lesson plan. To the contrary, she told Chaidler never to use that "lesson plan" again.

[Reply](#) · [Like](#) · November 9 at 12:59am



[Irene Chan](#) · UC Davis

I feel very sad for this little girl. you send your children to school with the thought that they'll be safe and in trusted hands. it's appalling that this principal fails even the 'reasonable person' test for suspecting abuse.

i'm not sympathetic in the least to Vijayendren.

i work in a preschool and as soon as any type of abuse is suspected, you report it.

PERIOD. you don't worry about not being sure or anything. you report it and let the authorities figure it out.

it's APPALLING that she still has a job as a "coordinator of teacher support programs". she is a pock on Evergreen Elementary School District. she's failed the children in a very big way. and her excuse is sickening... just because this little girl isn't completely distraught means nothing. she's a child and lacks the ability to express herself as an adult would. not every child is going to fit into the stereotype.

[Reply](#) · [7](#) · [Like](#) · [Follow Post](#) · [November 2 at 10:07am](#)



[Dennis Nichols](#) · [Subscribe](#) · Top Commenter

She deserves jail time for this. A basic tenant of working with children is that even if you have a slight suspicion you need to report it to the authorities. Tell them what you know, and let them decide whether or not further action is needed.

I suspect that the sicko teacher who did this is good looking and the principal was batting her eyelashes and not seeing the truth.

[Reply](#) · [5](#) · [Like](#) · [Follow Post](#) · [November 2 at 5:42am](#)



Dana Lee Depew II · Top Commenter · San Jose State University

"Basic tenant of working" please refer me to which law specifically you must be referring to. Also please refer me to the contractual obligation she signed that specifically states she must contact law authorities on even the slightest of suspicions.

The truth is this is legal reaching at its worst. Even the parent didn't think anything sexual happened. Should we go after the mother too?

Reply · 2 · Like · November 2 at 7:20am



Paul Sprague · Top Commenter

Try looking at California Penal Code Sections 11165-11174.3 Sir.

Reply · 6 · Like · November 2 at 7:47am



Cliff Geneson · Top Commenter

Paul Sprague, you and the DA need to read it. It is specific on "suspect" or "know" of abuse. She didn't suspect it, therefore no crime was committed by her. This isn't like the Penn State case, where the abuse was known, much less suspected. Were I on the jury, it's Not Guilty. Were I the judge, it would be sanctions against the idiot who brought the charges.

Reply · 1 · Like · November 2 at 7:58am



Paul Sprague · Top Commenter



"Reasonable Suspicion" as defined by the California Penal code occurs when "it is objectively reasonable for a person to entertain such a suspicion based on the facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect child abuse". (PC 11166(a)(1).

[Reply](#) · [5](#) · [Like](#) · November 2 at 8:14am



[Janice Ohlson Husak](#) · [Subscribe](#) · Top Commenter · [San Jose, California](#)

Cliff Geneson - The village idiot would need to report this to CPS, read the description of what the child said happened. This is some sick stuff that went on the teacher is one horrible person.

[Reply](#) · [4](#) · [Like](#) · November 2 at 8:19am



[Paul Sprague](#) · Top Commenter

Janice Ohlson Husak Well, you get it Janice, but I wonder if Mr Geneson will? There is a thing called "Standards of Conduct" which all positions of authority have and will be judged by. It is clear, that the defense is trying to argue against the "Reasonable Suspicion" doctrine saying that she did not have the proper education and training or experience to deal with the situation. It is clear, that witnesses in the case, such as Schmitt are also using the same defense.

[Reply](#) · [2](#) · [Like](#) · November 2 at 8:28am



[Angelina Tellier](#) · [Half Moon Bay, California](#)

The principal was obviously wrong....way wrong! The even more disturbing fact is that she went to hr for help and they gave her nothing more that direction to investigate. Then they threw her under the bus. They knew what happened and did nothing. They should all be held responsible. Anyone who would defend the principal or district is out right WRONG!

[Reply](#) · [3](#) · [Like](#) · November 2 at 8:57am



Sampson Mallory · Subscribe · Top Commenter · 103 subscribers

Dana Lee Depew II [www.cdss.ca.gov/cdssweb/](http://www.cdss.ca.gov/cdssweb/).

Reply · Like · November 2 at 9:28am



Amy Maggi Terao · Santa Teresa High

Are you nay sayers child molesters/criminals? If you think that there is not something wrong with what happened here then you are sick. I have been a mandated reporter and I don't need any special training to recognize that I would need to call the authorities. And Dana - do you not know that some parents are not that great at protecting their children/neglectful, etc? (Not saying neccesarily the case here, don't know the whole story on what the mother felt, etc.) Sometimes it is necessary for other people to stick up for children - for instance school officials = That is what mandated reporter laws are for!

Reply · 4 · Like · November 2 at 10:01am



Amy Maggi Terao · Santa Teresa High

Yes Janice, not only the village idiot but even my 5 year old would no to tell the police!

Reply · 1 · Like · November 2 at 10:24am



Steve Williams · Top Commenter · San Jose, California

Ms. Vijayendran obviously made the wrong decision. Why did she not step up and take responsibility for her decision instead of dragging this through the court?

Reply · 4 · Like · Follow Post · November 1 at 7:22pm



Dana Lee Depew II · Top Commenter · San Jose State University

She's not the one dragging it through the court, she is BEING dragged through the court.

Reply · 2 · Like · November 2 at 7:18am



Smita Philip · San Jose, California

remember her background...shes from india and out there "people dont do things like this" and if they do they turn a blind eye to it...i lived there i saw it with my own eyes...they have a hard time accepting that they are imperfect and therefore cant see their "brothers and sisters" being that way and will take any "excuse or reason" to believe otherwise...i think she should spend some time in jail expand her mind and let her see how the stupidest of crimes to the most serious crimes are justified by jail time and why...

Reply · 2 · Like · November 2 at 8:46am



Amy Maggi Terao · Santa Teresa High

as she should be dragged through the court! I don't mean a lynch mob but come on lady, you had to know this was wrong and should be prosecuted

Reply · 1 · Like · November 2 at 10:19am



Sonny Dosanjh · Top Commenter · American High

@Smita where does it say that she is from India? She is a Caucasian lady who married an Indian man, hence her last name. So, I am not understanding your point here in regards to her background unless you are implying that her husband

was in some way complicit in covering it up. I do agree with you, that these horrific things take place everywhere in the world, especially in controlled environments such as schools and churches/temples, etc.

[Reply](#) · [2](#) · [Like](#) · November 2 at 12:38pm



• [Suzanne Dunham Galanda Vicari](#) · Top Commenter

This makes me SICK! Sounds like the principle was Helen Keller! What is she a Dumb AZZ?

[Reply](#) · [4](#) · [Like](#) · [Follow Post](#) · November 1 at 8:03pm



• [Jesse Shatner](#) · Top Commenter

I don't understand how someone so stupid and criminally incompetent gets to be the principal of a school. I hope she goes to prison for a long time.

[Reply](#) · [3](#) · [Like](#) · [Follow Post](#) · November 2 at 9:09am



• [Amy Maggi Terao](#) · [Santa Teresa High](#)

unfortunately will not go to prison for a long time, I do feel bad for how stupid she acted, but definately was criminal and epecially when it comes to children - there is no excuse

[Reply](#) · [1](#) · [Like](#) · November 2 at 10:20am



• [Paul Rogers](#) · Top Commenter · [Santa Clara University School of Law](#)

Difficult to believe that in this day and age, a district hasn't given principals and HR directors updated training re sexual abuse by teachers. Also a little disturbed that there is zero mention of district hiring policies, background checks and what the district knew about this teacher's background prior to hiring him. Hopefully, he'll be someone's Helen Keller in prison.

[Reply](#) · [2](#) · [Like](#) · [Follow Post](#) · November 2 at 9:00am



Amy Maggi Terao · Santa Teresa High

I have been a mandated reporter and don't know what kind of training she needed in order to realize she needed to report this. But I do agree - should be more training for such an important issue

Reply · 2 · Like · November 2 at 10:22am



• Frank Nilsen · Top Commenter

These are all weak, pathetic excuses. If she had a shred of decency she would have plead guilty to avoid having this dragged into the public eye, but the fact that she took this to trial is proof of the same kind of severe personality defect that stopped her from doing the right and obvious thing in the first place.

Reply · 2 · Like · Follow Post · November 2 at 2:34pm



• Richard Shirley · Top Commenter · San Francisco, California

She believed him. She does not belong in that job if she could not connect the dots. What planet is she living on?

Reply · 2 · Like · Follow Post · November 2 at 3:37pm



• Anne Caploe · El Cerrito High School

Paul Sprague has listed the code and sections, those for mandated reporters. (I believe the noun is tenet, not tenant.)

Reply · 1 · Like · Follow Post · November 2 at 12:01pm



• Angelina Tellier · Half Moon Bay, California

<http://angelinamom.wordpress.com/2012/11/02/school-district-secrets-why-i-am-homeschooling/>

Reply · Like · Follow Post · November 1 at 10:45pm



• Carl Finch

Tracey Kaplan writes, "[Lyn Vijayendran] tried to explain Thursday what in hindsight seems unimaginable -- why she didn't call police to report..."

I'm afraid it IS imaginable! Women who have, themselves, been molested as children are sometimes vulnerable to the sort of "blindness" that Ms. Vijayendran exhibited in her

inaction---not that that in ANY way would make her behavior at all acceptable. It's  
imaginable, but still inexcusable.

[Reply](#) · [Like](#) · [Follow Post](#) · [November 2 at 4:13pm](#)



• [Joyce Wilson](#) · [Subscribe](#)

stupid B\*#\$#H

[Reply](#) · [Like](#) · [Follow Post](#) · [November 2 at 8:55am](#)

San Jose Mercury News » Wednesday, October 31, 2012

DR. WHALEY SCHOOL

# Former principal goes on trial

Vijayendran charged with failing to report teacher accused of molestation

By Sharon Noguchi  
snoguchi@mercurynews.com

SAN JOSE — California has the longest list in the nation of people required to report suspected child abuse — from teachers to dog catchers. But absent from that list are school district administrators, who often are

those first consulted by principals trying to discern between unusual, inappropriate and abusive behavior.

Exactly who must report what to authorities will be the subject of a misdemeanor trial set to open Wednesday of a former principal of O.B. Whaley School in San Jose

charged with failing to report a teacher now charged with molesting five second-graders.

In a rare prosecution under California's mandated reporter law, prosecutors will allege that Lyn Vijayendran violated the law in October 2011 when she failed to report to law enforcement a par-

ent's concern. If convicted, Vijayendran faces up to six months in jail. Teacher Craig Chandler, the parent reported, had blindfolded her daughter alone in his room and put something in her mouth.

Three months later, after the parent of another student brought a similar complaint and then called police, Chandler was arrested.

In both instances, Vijayendran and Assistant Principal Lea Peery

first contacted Carole Schmitt, human resources director for the Evergreen School District, for guidance.

But prosecutors are not charging Schmitt with failure to report. Papers obtained by the Mercury News in response to a Public Records Act request indicate that Schmitt heard via emails and

See ABUSE, Page 6



## Abuse

*Continued from Page 1*

phone calls about the parents' complaints against Chandler.

In January, Peery was filling in as principal while Vijayendran was on maternity leave. When the mother of the second student brought a similar complaint, Peery consulted with Schmitt at least five times. Later that morning, the parent reported she had called police, and Peery then filled out a report to Child Protective Services. The mother, who was crying, said that while Chandler was alone with her daughter in the classroom, he had blindfolded her, put something in her mouth and moved her head with his hands. The student told Peery she was scared to be in class. Crime lab tests showed Chandler's semen was found on chairs in his classroom.

Even after being told that police had been notified, Schmitt wrote in an email to Peery, "Please remind Mr. Candler (sic) he is not to pursue or make contact with this child or parent. He needs to leave her alone."

A month later, as the Evergreen district interviewed students who had been in Chandler's class, Peery asked Schmitt if she could record them. Schmitt suggested in an email not recording them, because the recordings would be admissible in a lawsuit, while notes might not be. She wrote, "When you write up your notes, the words from the students and teachers do not need to be verbatim, but just specific quotes that help your investigation."

Evergreen district Superintendent Kathy Gomez declined to comment on the district's policies, citing the pending trials.

California lists 40 job categories as mandated reporters, the most in the

nation, according to attorney Bill Grimm of the National Center for Youth Law in Oakland. But he thinks California's exhaustive list of people has effectively excluded some logical mandated reporters by its specificity. For example, the list doesn't list district office administrators, like human-resources directors such as Schmitt. Nor does it name principals, although presumably they're covered under "administrative officer or supervisor of child welfare and attendance."

Despite the law's vagueness, the Evergreen district maintains that all its teachers and administrators are mandated reporters.

Before 2000, the law was more general, covering school district employees as "child care custodians."

"I think anybody involved in public education of our children should be a mandated reporter," Grimm said. The list specifies doctors, counselors,

film processors and animal control officers.

Another weakness in the law, Grimm said, is that it doesn't require training for mandated reporters. Districts that don't conduct training simply must write a letter explaining why they didn't. Last year, the Evergreen district did not train its administrators. Gomez has said. But over the summer she said training would be done for the current school year.

Chandler was arrested in January and eventually charged with five felony counts of lewd and lascivious acts on a child under the age of 14, involving five students. He remains in Santa Clara County Jail without bail. Vijayendran was transferred to an administrative position in the district office.

Staff writer Tracey Kaplan contributed to this report.

Contact Sharon Noguchi at 408-271-3775. Follow her at [Twitter.com/NoguchiOnK12](https://twitter.com/NoguchiOnK12).



Trial begins for San Jose principal accused of failing to report suspec... [http://www.contracostatimes.com/ci\\_21899769/trial-begins-san-jose-...](http://www.contracostatimes.com/ci_21899769/trial-begins-san-jose-...)

Sign In | Register | Newsletters

Mobile | Mobile Alerts | RSS



News Publications My Town Sports Business Entertainment Living Columns Opinion Help

☐ Site ☐ Web Search by YAHOO!

Walnut Creek, CA

In The News: Zuckerberg privacy problem | Russia to bar U.S. adoptions | Marvel patent ruling | Gun owners' addresses put

0

Share

Tweet 0

Recommend

Send

Sign Up to see what your friends recommend.

## Trial begins for San Jose principal accused of failing to report suspected child molestation by teacher

By Tracey Kaplan [tkaplan@mercurynews.com](mailto:tkaplan@mercurynews.com)

Posted: 10/31/2012 05:55:54 PM PDT

Updated: 11/01/2012 08:43:37 AM PDT

SAN JOSE -- An 8-year-old San Jose girl and her mother show up at the principal's office to report a disturbing incident.

The principal calls human resources and is told to interview the teacher. So she questions him later, in particular about some "white stuff" on the girl's jacket. He glibly explains it was all part of an unorthodox lesson plan.

What the principal, Lyn Vijayendran, did next -- which was transfer the girl to a different class -- landed her in court Wednesday in a trial closely watched by parents and educators.

In a powerful opening statement, Santa Clara County prosecutor Alison Filo told the jury of five women and seven men that the O.B. Whaley Elementary School principal broke the law by failing to report to police what anyone with common sense would reasonably suspect from the girl's account. The principal should have realized that teacher Craig Chandler may have sexually molested the child, Filo contended. Chandler was arrested about three months later on charges of committing lewd and lascivious acts on five children and remains in jail pending trial.

It is only the second time in two decades that an educator in the county has faced charges for allegedly shirking her legal obligation as one of 41 "mandatory reporters," who range from certain school employees to coaches. Vijayendran, 36, has pleaded not guilty.

Filo was careful Wednesday not to demonize the principal, contrasting her with administrators

at Penn State who covered up football coach Jerry Sandusky's pedophilia. But without being explicit, Filo said the failure to report had extremely serious consequences. Chandler is suspected of molesting another little girl after the first child, and her mother met

Vijayendran. Tests by the Santa Clara County crime

Advertisement

SUNNYVALE VW

Sign in drive Event

Get Daily Deals

752

Trial begins for San Jose principal accused of failing to report suspec... [http://www.contracostimes.com/ci\\_21899769/trial-begins-san-jose-...](http://www.contracostimes.com/ci_21899769/trial-begins-san-jose-...)

"Ms. V was not trying to save the football team," Filo said. "There is no evidence she's a villain. She's a well-meaning woman who made a terrible, terrible mistake in judgment that a reasonable person would not make."

#### Detailed account

But in an equally compelling opening statement, Vijayendran's attorney Eric Geffon said no one involved — not the principal, the girl's mother nor the head of human resources with whom Vijayendran consulted — suspected anything sexual at the time.

If the principal is convicted, she faces up to six months in jail, though experts say it is more likely she'd be put on probation.

On Wednesday, Filo presented her case first, and the strongest evidence she offered against the principal was

contained in the handwritten notes the educator took in October 2011 during her conversation with the girl and her mother. Vijayendran gave the notes to police, who may not have discovered them otherwise.

The notes include the following account: The girl was told during recess that Chandler needed her. When she went to the classroom alone, he took out a blue blindfold and told her to cover her eyes and lie down on the floor. Before she complied, she saw him take out a blue blanket, which he put over her head. He removed her silver shoes. She felt something gooey on her feet, which she thought may have been his tongue.

He lifted the blanket up to her nose and put something gooey in her mouth. He moved her head around. She felt salty water in her mouth and it dripped onto her jacket. He opened the door and put a piece of Wonka candy in her mouth.

Filo contends he duped the child into performing a sex act.

But defense attorney Geffon suggested it was anything but obvious at the time.

"The case cannot be judged in hindsight," he argued, comparing it to someone claiming they knew the San Francisco Giants would make it to the World Series and emerge victorious. "Look not at what we know now, but at what she knew then."

Geffon drove home that the young principal was provided with "zero" training by the Evergreen Elementary School District during the 13 years she's worked there on how to judge reports from students and parents. She has been reassigned to the district office as coordinator of teacher support programs.

Geffon also said the child didn't act like any other child abuse victim Vijayendran had ever encountered; she wasn't tearful, emotional or evasive.

And in a key defense argument that may persuade jurors that Vijayendran was merely naive, Geffon pointed out that Chandler explained the incident to the principal calmly and even offered to meet with the child's parents to explain. The teacher told the principal he called the girl into the classroom to prepare a lesson on Helen Keller, which he had been using for years, and that the "instructional goal" was to deprive participating students of sight. He said he used a bath sponge on her foot and legs, and put a bottle containing salty water into her mouth. All the while, his classroom door was open, he told Vijayendran.

It was "a detailed, devious, well-thought out, well-prepared story he concocted that explained everything," Geffon said. "He was ready."

#### Another incident

Before Vijayendran became principal, Chandler had been reprimanded for sexually harassing a teacher in the mid-2000s, according to police reports in this case. The female teacher a transfer as a result, which the district granted.

SUNNYVALE

Sign the drive

Got Daily Deals

753

Trial begins for San Jose principal accused of failing to report suspec... [http://www.contracostimes.com/ci\\_21899769/trial-begins-san-jose...](http://www.contracostimes.com/ci_21899769/trial-begins-san-jose...)

her and put his hands on her hips, according to the reports. Another time, she said, he came into her classroom, closed the door and asked her if he could take pictures of her toes for a massage therapy class he was taking and if he could massage her feet, then again walked up behind her and put his hands on her hips.

The teacher also said Chandler complained to her about his sex life and on a different occasion told her he'd heard she was getting her breasts enhanced. When she denied it, she said he told her he was glad because she didn't need one.

Filo concluded her case by mid-afternoon. The defense begins its case Thursday when witnesses are expected to include the head of human resources, Carole Schmitt, whom Geffon said "directed, not advised" the principal what to do.

Contact Tracey Kaplan at 408-278-3482. Follow her at [Twitter.com/tkaplanreport](https://twitter.com/tkaplanreport).

Reprint BOOKMARK Print Email Font Resize Return to Top



New \$40 iPads for Christmas? -- Yep! If You Know Where to Look



How Cruise Lines Fill All Those Unsold Cruise Cabins



What Happens When You Take a Testosterone Supplement

### Recommended for You

- ▶ Housing project on Buena Vista Avenue before...
- ▶ Piedmont: Woman discovers burglar inside home
- ▶ Stanford could lose stars to NFL draft
- ▶ Hicks: Leonardo DiCaprio reportedly walked Kate...
- ▶ Hicks: 'Twilight' actor charged with being...
- ▶ Oakland Raiders shut out in Pro Bowl

set ~~SPONSORED~~ LINK -  
Rove: Obama Needs a New  
Second-Term Approach  
(From DailyMe.com)

Powered by  
newstogram

• FAQ: Article commenting how-tos and tips

Recommend

Sign Up to see what your friends recommend.



Add a comment...

Comment using...

Facebook social plugin

### Related Results

Alum Rock [Vote Yes on Measure J](http://yesonallur)

<http://yesonallur>

Found: [contra.com](http://contra.com) See anyone's past criminal history. Unlimited searches. Peace of mind.

Richmond Jobs Millions of Jobs at [Indeed.com](http://indeed.com). A Better Way to Search for Jobs.

SUNNYVALE

Sign in drive

Got Daily Deals

754

6 comments

Vincent Rodriguez · Top Commenter · Evergreen Valley College

Mr. Chandler will have plenty of goeey stuff put in his mouth where he's going...only it will be from a black man named Tyrone or homeboy named Puppet. He may not have the luxury of a blanket covering his face either...and the wonka candy will be replaced by a brown meat flute. Vijayendran should get the same treatment for letting this prick prey on another child....IMHO.  
Reply · 3 · Like · Follow Post · November 1 at 1:10pm

AL Rodriguez · Andrew P. Hill

This is revolting and I think the principal should go to prison her self she was responsible for the safety of the children and she let 5 so far that we know now be damaged for the rest of there life. She should suffer the same and be sent to prison. I have reported to a few different schools here in San Jose school district for certain verbal abuse behavioral situations by teachers with my child and nothing was done. They always just look it over. I think the school system is extreemly flawed and the school staff only look out for there retirements. Disgusting!  
Reply · 1 · Like · Follow Post · November 1 at 8:44pm

Marsha Racznik

San Jose sounds like a very unsafe, dangerous town to live in. Mental note....Don't ever go to San Jose for any reason, ever!

Reply · 1 · Like · Follow Post · November 1 at 7:53am

Eloise Imagos · Top Commenter

Marsha, I'm pretty sure we can live with that.

Reply · 2 · Like · November 1 at 8:48am

Adrian Silva · San Jose State University

San Jose is not a town, it is a city with about a million people, so of course bad things are going to happen. You are totally ignorant if you think these things aren't happening in your "town". Get real.

Reply · 4 · Like · November 1 at 9:13am

Marsha Racznik

ELOISE, YOUR FUNNY. LOL, LOL, LOL.

Reply · Like · November 1 at 9:21am

Marsha Racznik

Adrian Silva, YOU ARE EVEN FUNNIER, LOL, LOL,

Reply · Like · November 1 at 9:22am

Jan Yawnjan · Top Commenter

Eloise Imagos: You are senile.

Reply · Like · November 1 at 11:35am

Adrian Silva · San Jose State University

Marsha Racznik : \*you're

Reply · Like · November 1 at 1:48pm

Jan Yawnjan · Top Commenter

I hope this sick puppy rots in hell. I hope they fire this stupid principal to teach her a "lesson".

Reply · 1 · Like · Follow Post · November 1 at 1:19am

Paul Sprague · Top Commenter

He will, but you have to wonder about those like Vijayendran who are supposed to be educators commissioned to ensuring the safety of our children when in their custody.

Reply · 1 · Like · November 1 at 7:07am

Suzanne Dunham Galanda Vicari · Top Commenter

PPI from other countries have different ideas. They need to be educated when they are working w/ our children. I worked in education for 30 years. I once had a director that turned a blind eye to abuse, she did not want to give HER school a bad reputation. I reported to CPS!

Reply · Like · Follow Post · November 2 at 9:20am

Caroline Redbrook · Top Commenter

This underscores the need to get accused pedophiles like Sylvain Kustyan off our streets. Kustyan has been formally charged with two counts of 1st Degree Sodomy of a ten-year-old little boy. This French native and middle school teacher is currently on the lam.

Reply · Like · Follow Post · November 1 at 6:08am

Eloise Imagos · Top Commenter

Caroline Redbrook - In general, getting pedophiles off the streets is the right thing to do. I am not seeing how getting Sylvain Kustyan off the streets would change the Whaley Elementary School situation in the slightest. Would you please help me understand your logic? Thanks.

Reply · Like · November 1 at 10:40am

Jan Yawnjan · Top Commenter

Imagos: "In general" ?!?!?!? Of course it's the right thing to do, moron!!!! What a stupid comment! Getting pedophiles off the street would at least prevent them from claiming more victims. As far as the Whalen situation, firing the principal and implementing Title IX better is some hope of dealing with this unfortunate situation. Give me a break.

Reply · Like · November 1 at 11:32am

Eloise Imagos · Top Commenter

Jan- We are both saying the same thing, Pedophiles should be off the streets. What I'm hoping Caroline can clarify is how the one particular pedophile she cited is related to this case.

Oh, and I asked questions when I didn't understand instead of immediately jumping to name calling. I recommend you try it sometime.

Reply · Like · November 1 at 6:32pm

Trial starts for San Jose principal accused of failing to report suspect... [http://www.contracostatimes.com/ci\\_21891519/trial-starts-wednesda...](http://www.contracostatimes.com/ci_21891519/trial-starts-wednesda...)

Sign In | Register | Newsletters

Mobile | Mobile Alerts | RSS

News Publications My Town Sports Business Entertainment Living Columns Opinion Help

☐ Site ☐ Web Search by YAHOO!

Walnut Creek, C

In The News: Zuckerberg privacy problem | Russia to bar U.S. adoptions | Marvell patent ruling | Gun owners' addresses put

0

Share

Tweet

0

Sign Up to see what your friends recommend.

## Trial starts for San Jose principal accused of failing to report suspected child abuse

By Sharon Noguchi [snoguchi@mercurynews.com](mailto:snoguchi@mercurynews.com)

Posted: 10/31/2012 10:10:12 AM PDT

Updated: 10/31/2012 10:11:28 AM PDT

California has the longest list in the nation of people required to report suspected child abuse -- from teachers to dog catchers. But absent from that list are school district administrators, who often are those first consulted by principals trying to discern between unusual, inappropriate and abusive behavior.

Exactly who must report what to authorities will be the subject of a misdemeanor trial set to open Wednesday of a former principal of O.B. Whaley School in San Jose charged with failing to report a teacher now charged with molesting five second-graders.

In a rare prosecution under California's mandated reporter law, prosecutors will allege that Lyn Vijayendran violated the law in October 2011 when she failed to report to law enforcement a parent's concern. If convicted, Vijayendran faces up to six months in jail. Teacher Craig Chandler, the parent reported, had blindfolded her daughter alone in his room and put something in her mouth.

Three months later, after the parent of another student brought a similar complaint and then called police, Chandler was arrested.

In both instances, Vijayendran and Assistant Principal Lea Peery first contacted Carole Schmitt, human resources director for the Evergreen School District, for guidance.

But prosecutors are not charging Schmitt with failure to report. Papers obtained by the Mercury News in response to a Public Records Act request indicate that Schmitt heard via emails and phone calls about the parents' complaints against Chandler.

Click photo to enlarge



Teacher Craig Richard Chandler, arrested on suspicion of... (San Jose Police Department)

Advertisement

...ary, Peery was filling in as principal while

SUNNYVALE

Sign the drive

GotDailyDeals

757

Trial starts for San Jose principal accused of failing to report suspect... [http://www.contracostatimes.com/ci\\_21891519/trial-starts-wednesda...](http://www.contracostatimes.com/ci_21891519/trial-starts-wednesda...)

0

Like

0

consulted with Schmitt at least five times. Later that morning the parent reported she had called police, and Peery then filled out a report to Child Protective Services. The mother, who was crying, said that while Chandler was alone with her daughter in the classroom he had blindfolded her, put something in her mouth and moved her head with his hands. The student told Peery she was scared to be in class. Crime lab tests showed Chandler's semen was found on chairs in his classroom.

Even after being told that police had been notified, Schmitt wrote in an email to Peery, "Please remind Mr. Candler (sic) he is not to pursue or make contact with this child or parent. He needs to leave her alone."

A month later, as the Evergreen district interviewed students who had been in Chandler's class, Peery asked Schmitt if she could record them. Schmitt suggested in an email not recording them, because the recordings would be admissible in a lawsuit, while notes might not be. She

wrote, "When you write up your notes, the words from the students and teachers do not need to be verbatim, but just specific quotes that help your investigation."

Evergreen School District Superintendent Kathy Gomez declined to comment on the district's policies, citing the pending criminal trials.

California lists 40 job categories as mandated reporters, the most in the nation, according to attorney Bill Grimm of the National Center for Youth Law in Oakland. But he thinks California's exhaustive list of people has effectively excluded some logical mandated reporters by its specificity. For example, the list doesn't list district office administrators, like human resources directors such as Schmitt. Nor does it name principals, although presumably they're covered under "administrative officer or supervisor of child welfare and attendance."

Despite the law's vagueness, the Evergreen district maintains that all its teachers and administrators are mandated reporters.

Before 2000, the law was more general, covering school district employees as "child care custodians."

"I think anybody involved in public education of our children should be a mandated reporter," Grimm said. The list specifies doctors, counselors, film processors and animal control officers.

Another weakness in the law, Grimm said, is that it doesn't require training for mandated reporters. Districts that don't conduct training simply must write a letter explaining why they didn't. Last year, the Evergreen School District did not train its administrators, Gomez has said. But over the summer she said training would be done for the current school year.

Chandler was arrested in January and eventually charged with five felony counts of lewd and lascivious acts on a child under the age of 14, involving five students. He remains in Santa Clara County Jail without bail. Vijayendran was transferred to an administrative position in the district office.

Staff writer Tracey Kaplan contributed to this report. Contact Sharon Noguchi at 408-271-3775. Follow her at [Twitter.com/NoguchiOnK12](https://twitter.com/NoguchiOnK12).

Reprint BOOKMARK Print Email Font Resize Return to Top

SUNNYVALE

Signin drive

GotDailyDeals

758



San Jose: Trial starts Wednesday for principal accused of failing to r... [http://www.contracostatimes.com/ci\\_21891514/san-jose-trial-starts...](http://www.contracostatimes.com/ci_21891514/san-jose-trial-starts...)

Sign In | Register | Newsletters

Part of the Bay Area News Group

Mobile | Mobile Alerts | RSS

CHOOSE SAINT MARY'S FOR MY MBA! BECAUSE WE BOTH VALUE Global Thinking

RSVP Jan 10 San Ramon Jan 16 Santa Clara Jan 23 Online

SAINT MARY'S COLLEGE CALIFORNIA

News Publications My Town Sports Business Entertainment Living Columns Opinion Help

Jobs Cars Homes Classifieds Shop

Walnut Creek, CA Now: 54°F High: 54°F Low: 37°F city or zip

In The News: Zuckerberg privacy problem | Russia to bar U.S. adoptions | Marvell patent ruling | Gun owners' addresses published | Pro Bowl rosters | Candy cigarette warning

Advertisement

Share Tweet: 0

Recommend Send Sign Up to see what your friends recommend.

## San Jose: Trial starts Wednesday for principal accused of failing to report suspected child abuse

By Sharon Noguchi  
snoguchi@mercurynews.com  
Posted: 10/31/2012 07:26:00 AM PDT  
Updated: 10/31/2012 02:36:03 PM PDT

California has the longest list in the nation of people required to report suspected child abuse — from teachers to dog catchers. But absent from that list are school district administrators, who often are those first consulted by principals trying to discern between unusual, inappropriate and abusive behavior.

Exactly who must report what to authorities will be the subject of a misdemeanor trial set to open Wednesday of a former principal of O.B. Whaley School in San Jose charged with failing to report a teacher now charged with molesting five second-graders.

In a rare prosecution under California's mandated reporter law, prosecutors will allege that Lyn Vijayendran violated the law in October 2011 when she failed to report to law enforcement a parent's concern. If convicted, Vijayendran faces up to six months in jail. Teacher Craig Chandler, the parent reported, had blindfolded her daughter alone in his room and put something in her mouth.

Three months later, after the parent of another student brought a similar complaint and then called police, Chandler was arrested.

In both instances, Vijayendran and Assistant Principal Lea Peery first contacted Carole Schmitt, human resources director for the Evergreen School District, for guidance.

But prosecutors are not charging Schmitt with failure to report. Papers obtained by the Mercury News in response to a Public Records Act request indicate that Schmitt heard via emails and phone calls about the parent's complaints against Chandler.

Advertisement

In January, Peery was filling in as principal while Vijayendran was on maternity leave. When the mother of the second student brought a similar complaint, Peery consulted with Schmitt at least five times. Later that morning the parent reported she had called police, and Peery then filled out a report to Child Protective Services. The mother, who was crying, said that while Chandler was alone with her daughter in the classroom he had blindfolded her, put something in her mouth and moved her head with his hands. The student told Peery she was scared to be in class. Crime lab tests showed Chandler's semen was found on chairs in his classroom.

Even after being told that police had been notified, Schmitt wrote in an email to Peery, "Please remind Mr. Chandler (sic) he is not to pursue or make contact with this child or parent. He needs to leave her alone."

A month later, as the Evergreen district interviewed students who had been in Chandler's class, Peery asked Schmitt if she could record them. Schmitt suggested in an

email not recording them, because the recordings would be admissible in a lawsuit, while notes might not be. She wrote, "When you write up your notes, the words from the students and teachers do not need to be verbatim, but just specific quotes that help your investigation."

Evergreen School District Superintendent Kathy Gomez declined to comment on the district's policies, citing the pending criminal trials.

California lists 40 job categories as mandated reporters, the most in the nation, according to attorney Bill Grimm of the National Center for Youth Law in Oakland. But he thinks California's exhaustive list of people

Click photo to enlarge



Teacher Craig Richard Chandler, arrested on suspicion of... (San Jose Police Department)



fyi bayarea

Find:   
in:  East Bay   
Buy One 2nd 1/2 off from Stricly To Go Pizzeria of Concord  
Great Specials from Doors on Demand of Fremont  
Dining | Ads/coupons | Claim Your Listing

Most Viewed Most E-Mailed

(From the last 12 hours)

1. Marvell slammed with \$1.2 billion patent-infringement judgment...
2. Walnut Creek police investigate fatal officer-involved shooting...
3. Richmond woman killed in crash on San Pablo Dam Road
4. Three Brentwood homes evacuated due to natural gas leak
5. Bay Area's tech-led boom is broadening
6. Oakland Raiders shut out in Pro Bowl selections

NEXT ARTICLE IN NEWS

Biz Break: Wall Street whipsaws with 'fiscal cliff' discussions, Apple reveals executives' compensation

» Continue to article...

GotDailyDeals

Belmont couple find success with jerky-and-pickle

759



San Jose: Trial starts Wednesday for principal accused of failing to r... [http://www.contracostatimes.com/ci\\_21891514/san-jose-trial-starts...](http://www.contracostatimes.com/ci_21891514/san-jose-trial-starts...)

Share

Options

Font Size

- Smaller
- Normal
- Larger

Viewer Comments

on

Sounds

Flickr

Translate posts and comments.

ScribbleLive

ScribbleLive is powering generation now with its live CMS. [Learn more](#)

- Share
- Options

"administrative officer or supervisor of child welfare and attendance."

Despite the law's vagueness, the Evergreen district maintains that all its teachers and administrators are mandated reporters.

Before 2000, the law was more general, covering school district employees as "child care custodians."

"I think anybody involved in public education of our children should be a mandated reporter," Grimm said. The list specifies doctors, counselors, film processors and animal control officers.

Another weakness in the law, Grimm said, is that it doesn't require training for mandated reporters. Districts that don't conduct training simply must write a letter explaining why they didn't. Last year, the Evergreen School District did not train its administrators, Gomez has said. But over the summer she said training would be done for the current school year.

Chandler was arrested in January and eventually charged with five felony counts of lewd and lascivious acts on a child under the age of 14, involving five students. He remains in Santa Clara County Jail without bail. Vijayendran was transferred to an administrative position in the district office.

Staff writer Tracey Kaplan contributed to this report. Contact Sharon Noguchi at 408-271-3775. Follow her at [Twitter.com/NoguchiOnK12](https://twitter.com/NoguchiOnK12).

#### Recommendations

[Sign Up](#) Create an account or log in to see what your friends are recommending.

Police: 1 dead, 3 wounded in Sac home invasion.

45 people recommended this.

Walnut Creek police investigate fatal officer-involved shooting

9 people recommended this.

Antioch: Two teens arrested on suspicion of burning down park playground

251 people recommended this.

Facebook social plugin

Reprint [BOOKMARK](#) [Print](#) [Email](#) [Font Resize](#) [Return to Top](#)

#### Recommended for You

- ▶ Roadshow: Barricades for I-680 toll lanes not...
- ▶ Suspect arrested in shooting death of Martinez...
- ▶ Hicks: 'Twilight' actor charged with being...
- ▶ Alameda woman faces charges over Christmas Day...
- ▶ Police report: Alamo/Danville/San Ramon
- ▶ Marquee NBA matchup: Warriors' Curry vs. 76ers...

SPONSORED LINK -  
Rover: Obama Needs a New  
Second-Term Approach  
(From DailyM.com)

Powered by  
newstogram

FAQ: Article commenting how-tos and tips

Recommend [Sign Up](#) to see what your friends recommend.



Add a comment...

Comment using...

Facebook social plugin

#### Related Results

Vote Yes on Measure J! Help Improve Alum Rock schools

Public Arrest Records 1) Enter Name and State, 2) Access Full Background Checks Instantly

Richmond Jobs One Search. All Jobs. Find your new job today. Indeed!

Ads by Yahoo

<http://yesonalumrockschools.com>

#### NEXT ARTICLE IN NEWS

Biz Break: Wall Street whipsaws with 'fiscal cliff' discussions, Apple reveals executives' compensation

» Continue to article...

SUNNYVALE  
VW

Sign the drive

Get Daily Deals

Belmont couple find success with jerky-and-pickle

760

San Jose Mercury News » Friday, October 5, 2012

O.B. WHALEY ELEMENTARY

# Notes in child sex abuse case released

Principal accused of failing to report  
possible molestation involving teacher

By Mark Gomez  
and Sharon Noguchi  
Staff writers

SAN JOSE Under court order, the Evergreen School District on Thursday released notes taken by a principal who stands accused of failing to report suspected child sexual abuse by a teacher.

The notes by O.B. Whaley Elementary Principal Lyn Vijayendran detail how a second-grade student told her that teacher Craig Chandler put something in her mouth while she was blindfolded and alone with him in a classroom. Chandler wiggled her body and head "back and forth" and earlier asked her

to "open her legs," according to the principal's handwritten and typed notes of the interview with the girl.

This newspaper had sought the notes, which had been sealed as part of the court record.

Prosecutors say the girl's account "should have been enough for Vijayendran to contact police or Child Protective Services and report potential child abuse — as the law requires principals, teachers and others who come into contact with children to do. Instead, the principal consulted with Evergreen School District Human

See ABUSE, Page 5

## Abuse

Continued from Page 1

Resources Director Carole Schmitt and then warned Chandler not to play what he called a "Helen Keller lesson" with students alone.

Three months later, Chandler was accused of molesting another student, whose parent reported him to police.

The court had sealed Vijayendran's handwritten and typed notes, but a judge released them Thursday, 2 1/2 months after this newspaper filed a California Public Records Act request with the Evergreen School District.

Chandler, who was arrested Jan. 10, remains jailed and awaits trial on five counts of lewd and lascivious acts on a child under age 14.

Vijayendran faces one misdemeanor charge, only the second time in two decades that an educator in Santa Clara County is being charged with failing to report suspected abuse.

In an interview with Vijayendran, Chandler said he called the girl into the classroom to prepare a lesson on Helen Keller, and that the "instructional goal" was to deprive the students of their sight. He said he used a bath sponge on her foot and legs and put a bottle of salty water into her mouth. All the while, his classroom door was open, he told Vijayendran.

"I told Mr. Chandler that his actions were made with very poor judgment," Vijayendran said in her notes. When she described what the girl told her, Chandler replied, "Oh, when you put it that way, it does sound really bad."

Prosecutors allege that a "reasonable person" would have suspected abuse occurred based on the girl's statements, which then obligates a report to authorities.

Eric Gertson, Vijayendran's attorney, disagreed. "Nobody involved in this situation, not the district, the parent nor Lyn thought this was an act of physical abuse," he said.

But Margaret Petros, who advocates on behalf of victims in Santa Clara County, was incensed. "There is no excuse for any person involved in this case not to have reported it," she said. "All these professionals who are paid to protect our children should not just be criminally charged but civilly sued as individuals." The law doesn't specifically list district-level administrators like Schmitt as mandated reporters.

In the typed notes, Vijayendran wrote that the second grader's mother was concerned about an incident involving her daughter. With the mother present, Vijayendran interviewed the girl, who described Chandler instructing her to take off her shoes and lie down on the floor while blindfolded. The girl described how Chandler touched her foot with something "damp" and put something to drink in her mouth.

After hearing the allegation, Vijayendran called the school district's human resources department and asked what to do next, according to the typed notes. Vijayendran said she was directed to keep interviewing the girl and get as detailed an account as possible. The principal complied,

and then at the district's instruction called in Chandler.

Vijayendran's notes were also attached to an affidavit of probable cause in the criminal case against her filed by the Santa Clara County District Attorney's Office but were ordered sealed on Aug. 14 by Santa Clara County Superior Court Judge Kenneth L. Shapiro at the request of the principal's attorney.

Shapiro then ordered them unsealed and rebuffed a move by attorneys representing Vijayendran and Chandler to block the school district from releasing the notes.

Alison Filo, the prosecutor handling Vijayendran's case, was out of the office Thursday but previously told this newspaper that

**Vijayendran faces one misdemeanor charge, only the second time in two decades that an educator in Santa Clara County is being charged with failing to report suspected abuse.**

because the principal did not alert police to the first reported incident, another child was molested and potential forensic evidence was lost. Vijayendran has been reassigned to the district office as coordinator of teacher support programs.

Tests by the Santa Clara County crime lab found semen on chairs in Chandler's classroom, according to court files.

Chandler continued teaching until January when he was arrested by San Jose police. In that second case of suspected abuse, the assistant principal reported the complaint to district administrators, spoke to Chandler and notified Child Protective Services the same day. Separately, the parent called police.

Contact Mark Gomez at 408-920-5869 or mgomez@mercurynews.com. Follow him at Twitter.com/MarkMGomez. Contact Sharon Noguchi at 408-271-3775 or snoguchi@mercurynews.com.

Girl told principal that teacher 'blindfolded her, put something in her ... <http://www.dailymail.co.uk/news/article-2213467/Girl-told-principal...>

## MailOnline

### Teacher 'blindfolded girl, put something in her mouth and made her spread her legs in bizarre Helen Keller lesson'

By Daily Mail Reporter

PUBLISHED: 12:14 EST, 5 October 2012 | UPDATED: 15:37 EST, 5 October 2012



Suspect: Teacher Craig Chandler has been charged with five counts of child sex abuse for allegedly molesting elementary school children

Newly released notes of a California elementary school principal have revealed that a teacher charged with molesting kids in class blindfolded a second-grader and put something in her mouth.

Tests by the Santa Clara County crime lab found semen on chairs in the San Jose classroom of 35-year-old teacher Craig Chandler, who was charged earlier this year with assaulting five children at O.B. Whaley Elementary School.

The San Jose Mercury News has obtained the previously-sealed notes of principal Lyn Vijayendran showing she was aware of allegations of unusual classroom behavior but failed to notify police or Child

763



Girl told principal that teacher 'blindfolded her, put something in her ... <http://www.dailymail.co.uk/news/article-2213467/Girl-told-principal...>

#### Protective Services.

The law requires principals, teachers and others who come into contact with children to report suspected child abuse.

Vijayendran, 36, was charged in July with a misdemeanor in the case for failing to alert police about the incident. If convicted, she could face up to six months in county jail.

According to Vijayendran's handwritten and typed notes, the second-grade student told her that Chandler blindfolded her and gave her something to drink while the two were alone in a classroom.



Suspicious actions: A second-grader at O.B. Whaley Elementary School in San Jose informed the principal that Chandler had blindfolded her and put something in her mouth

The 35-year-old man wiggled her body and head 'back and forth' and asked the child to 'open her legs,' the notes state.

Prosecutors said that rather than report the potential child abuse right away, the principal contacted an official at the school district's human resources department, who subsequently warned Chandler not to conduct what he called a 'Helen Keller lesson' with students alone.

Three months later, the 35-year-old teacher was accused of molesting another student, whose parent alerted police.

Chandler continued teaching until January, when he was arrested and charged with five counts of lewd and lascivious acts performed on a child under age 14.

Girl told principal that teacher 'blindfolded her, put something in her ... <http://www.dailymail.co.uk/news/article-2213467/Girl-told-principal...>



**Allegations:** Principal Lyn Vijayendran is accused of failing to report a possible case of abuse even though her notes reflect that she was aware of the allegations

When Vijayendran asked Chandler about the second-grader's allegations, the teacher told her that called the girl into the classroom to go over a lesson on Helen Keller, the famous deaf-blind early 20th century educator and activist.

According to Chandler, the "instructional goal" was to deprive students of their sight. He told the principal that he had touched the girl's leg with a bath sponge and put a bottle of salty water in her mouth while she was blindfolded.

Throughout the lesson, the classroom door stayed open, the man said.

Girl told principal that teacher 'blindfolded her, put something in her ... <http://www.dailymail.co.uk/news/article-2213467/Girl-told-principal...>



Explanation: Chandler told the principal that he had blindfolded the girl as part of a lesson on the blind-deaf educator Helen Keller (pictured)

'I told Mr. Chandler that his actions were made with very poor judgment,' Vijayendran wrote in her notes. When she described what the girl told her, Chandler replied, 'Oh, when you put it that way, it does sound really bad.'

The principal later interviewed the second-grader in her mother's presence. During the meeting, the child told Vijayendran that Chandler instructed her to remove her shoes and lie down on the floor with a blindfold covering her eyes.

She then described how the teacher touched her foot with a damp object and gave her something to drink.

Following the interview, Vijayendran contacted human resources and was instructed to continue interviewing the girl in order to get as detailed an account of the incident as possible.

Chandler was arrested on January 10 after police received a report from the parents of a child at the school who complained about being molested by the teacher.

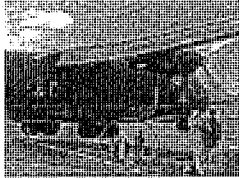
In late August, new allegations came to light that Chandler may have been sexually assaulting a 10-year-old girl for two years.

An attorney for the alleged victim has claimed that the child was molested when she was in Chandler's class from August 2010 through May 2011.

Prosecutor Alison Filo told the paper that Vijayendran has been reassigned to the district office as coordinator of teacher support programs.

766

Girl told principal that teacher 'blindfolded her, put something in her ... <http://www.dailymail.co.uk/news/article-2213467/Girl-told-principal...>



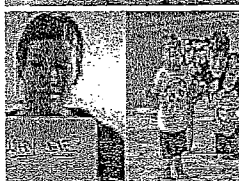
Now that's what you call REAL plane spotting! Enthusiasts...



White House petition against 'hate group' church that...



Musical theater student, 21, wins a stalking order against...



Mother-of-two records heartbreaking video telling her health...



Mark Zuckerberg's sister Randi complains of privacy breach...



Indian gang rape victim in horror bus attack given fresh...

#### Comments (3)

- [Newest](#)
- [Oldest](#)
- [Best rated](#)
- [Worst rated](#)

[View all](#)

What a sicko! We all know what that "bottle of salty water in her mouth" really was! I don't understand some people at all!

- [Jazzy](#) , Des Moines, 05/10/2012 19:36

767



Girl told principal that teacher 'blindfolded her, put something in her ... <http://www.dailymail.co.uk/news/article-2213467/Girl-told-principal...>

Click to rate \_\_ Rating 79

[Report abuse](#)

this is absolutely revolting. I can't imagine if someone did this to my child.

- [hologram87](#) , Rochester, 05/10/2012 19:32

Click to rate \_\_ Rating 68

[Report abuse](#)

Would have fired him on the spot!! Or at the very least put the cretin on suspension!

- [alsgal87](#) , St Pauls, United States, 05/10/2012 19:10

Click to rate \_\_ Rating 59

[Report abuse](#)

The views expressed in the contents above are those of our users and do not necessarily reflect the views of MailOnline.

San Jose Principal's Notes Detail Teacher's Bizarre Alleged Sexual ... <http://sanfrancisco.cbslocal.com/2012/10/05/san-jose-principals-not...>

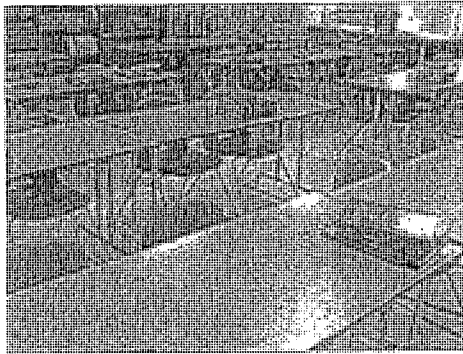
## San Jose Principal's Notes Detail Teacher's Bizarre Alleged Sexual Assaults

October 5, 2012 6:30 AM

Like 10 Tweet 3

Share 3

View Comments



(CBS)

### Filed Under

Local, News

### Related Tags

Classroom, Craig Chandler,  
Crime, Crime Lab, O.B.  
Whaley Elementary,  
Principal's Notes, San Jose,  
Semen, Sex abuse, Teacher,  
Teacher Sex

SAN JOSE (CBS/AP) — A principal's notes show a San Jose teacher charged with molesting kids in class blindfolded a second-grade girl and put something in her mouth.

Tests by the Santa Clara County crime lab found semen on chairs in the classroom of 35-year-old teacher Craig Chandler, who was charged earlier this year with assaulting five children at O.B.

Whaley Elementary School.

The San Jose Mercury News obtained the previously-sealed notes of principal Lyn Vijayendran showing she was aware of allegations of unusual classroom behavior but she failed to notify police or Child Protective Services.

The law requires principals, teachers and others who come into contact with children to report suspected child abuse.

Vijayendran has been charged with a misdemeanor.

(Copyright 2012 by CBS San Francisco. All rights reserved. This material may not be published, broadcast, rewritten or redistributed.)



R  
C

769

3 comments

JaneQPublic • 2 months ago

Charged with a MISDEMEANOR?? That's all??????  
I hope she has been FIRED and is never allowed to be in an administrative capacity around children EVER again!

Moondog • 2 months ago

Tests by the Santa Clara County crime lab found semen on chairs in the classroom of 35-year-old teacher Craig Chandler

Please don't tell me this degenerate, perverted POS is out on bail, and the principal should be in jail as well, It's always not that bad when it happens to other children and not your own.

Robert O'Connor • 2 months ago

In a better world headline would be: Santa Clara County Hiring New School Principal After Former Principal Sentenced to 30 years...

Principal's notes say teacher blindfolded girl - ContraCostaTimes.com [http://www.contracostatimes.com/ci\\_21705965/principals-notes-say-...](http://www.contracostatimes.com/ci_21705965/principals-notes-say-...)

Sign In | Register | Newsletters

Mobile | Mobile Alerts | RSS

News Publications My Town Sports Business Entertainment Living Columns Opinion Help

  Site ☐ Web Search by YAHOO! Walnut Creek, CA

In The News: Zuckerberg privacy problem | Russia to bar U.S. adoptions | Marvell patent ruling | Gun owners' addresses put

Sign Up to see what your friends recommend.

## Principal's notes say r blindfolded girl

The Associated Press

Posted: 10/05/2012 06:10:58 AM PDT  
Updated: 10/05/2012 03:11:38 PM PDT

SAN JOSE, Calif.—Notes taken by a former suspected sexual abuse at her California elementary school children in class blindfolded a second-grade

The notes of onetime O.B. Whaley Elementary School principal Lyn Vijayendran indicate she was aware of allegations of unusual classroom behavior by teacher Chandler but failed to notify police or Child Protective Services, the San Jose Mercury News reported Thursday.

The notes were previously sealed but were unsealed after a Public Records Act request with the Evergreen

Other documents showed that tests by the county

The case is similar to that of another onetime California educator accused of inappropriate behavior with his students dating back to 2005.

Former Los Angeles elementary school teacher Mark Berndt, 61, was arrested in January and remains jailed after pleading not guilty to committing lewd acts with nearly two-dozen children as young as 6.

Prosecutors claim Berndt, a teacher for more than 30 years at Miramonte Elementary School, made students play a bizarre tasting game, blindfolding and feeding them his semen smeared on

cookies and spoons.

Advertisement

Hundreds of photographs were found of children with blindfolds and tape over their mouths.

Chandler, 35, also was arrested in January and remains jailed as he awaits trial this month on five counts of lewd and lascivious acts on a child under age 14. He has

not guilty.

SUNNYVALE

Signthendrive Ever

GetDailyDeals

771

Principal's notes say teacher blindfolded girl - ContraCostaTimes.com [http://www.contracostatimes.com/ci\\_21705965/principals-notes-say-...](http://www.contracostatimes.com/ci_21705965/principals-notes-say-...)

His lawyer, Brian Madden, told The Associated Press on Friday that his client is a married father of three children, all under 5, who has been a teacher for nine years, mostly in San Jose.

"Mr. Chandler is looking forward to his jury trial and he expects to be exonerated," said Madden, who would not comment on the notes taken by Vijayendran.

The law requires principals, teachers and others who come into contact with children to report suspected child abuse. Vijayendran has been charged with a misdemeanor and reassigned to the district office as a coordinator of teacher support programs.

Her handwritten and typed notes say the second-grader told the principal in front of her mother that Chandler put something in her mouth while she was blindfolded and alone with him in a classroom. The notes said Chandler wiggled her body and head back and forth and asked her

earlier to open her legs.

Vijayendran's attorney, Eric Geffon, told the AP that neither his client, the child's parent nor the district thought the episode was abuse.

"Nobody saw this as an act of abuse," Geffon reported.

Prosecutors, however, say the girl's account Services. Instead, the principal consulted with her to conduct what he called a "Helen Keller le

In an interview with Vijayendran, Chandler's instructional goal was to deprive the student of a bottle of salty water into her mouth.

Chandler told Vijayendran his classroom do

"I told Mr. Chandler that his actions were me described to Chandler what the girl said, Ch according to the notes.

d be inaccurate to say that there was a claim of abuse






een enough for Vijayendran to contact police or Child Protective district's human resources director and then warned Chandler not ents alone, the notes state.

ie girl into the classroom to prepare a lesson on Keller, and the ndler said he used a bath sponge on her foot and legs, and put

entire time.

for judgment," Vijayendran said in her notes. When she "Oh, when you put it that way, it does sound really bad,"

Information from: San Jose (Calif.) Mercury News, <http://www.mercurynews.com>

Reprint  BOOKMARK  Print  Email  Font Resize  Return to Top

SUNNYVALE  
VW

Sign the drive

Got Daily Deals

772

San Jose principal's notes: Girl said teacher blindfolded her, put something into her mouth – San Jose Mercury News

10/12/12 10:43 AM

SIGN IN | REGISTER | NEWSLETTERS

MercuryNews.com

Like 32k eEdition / Subscriber Services  
Mobile / Mobile Alerts | RSS

Sunnyvale VW

Click Here for More Details

Part of the Bay Area News Group

Autobahn

All Event

NEWS PHOTOS BUSINESS TECH SPORTS ENTERTAINMENT LIVING OPINION PUBLICATIONS MYTOWN HELP

JOBS CARS REAL ESTATE CLASSIFIED SHOPPING

Site Web Search by YAHOO!

San Jose, CA Now: 55°F High: 66°F Low: 50°F city or zip:

today's DEALS *Raley's*

Advertisement

Recommend Send 98 people recommend this.

3

Share

Tweet 7

## San Jose principal's notes: Girl said teacher blindfolded her, put something into her mouth

By Mark Gomez and Sharon Noguchi  
Mercury News  
Posted: 10/04/2012 06:02:33 PM PDT  
Updated: 10/05/2012 05:54:17 AM PDT

SAN JOSE — Under court order, the Evergreen School District on Thursday released notes taken by a principal who stands accused of failing to report suspected child sexual abuse by a teacher.

The notes by O.B. Whaley Elementary Principal Lyn Vijayendran detail how a second-grade student told her that teacher Craig Chandler put something in her mouth while she was blindfolded and alone with him in a classroom. Chandler wiggled her body and head "back and forth" and earlier asked her to "open her legs," according to the principal's handwritten and typed notes of the interview with the girl.

This newspaper had sought the notes, which had been sealed as part of the court record.

Prosecutors say the girl's account should have been enough for Vijayendran to contact police or Child Protective Services and report potential child abuse — as the law requires principals, teachers and others who come into contact with children to do. Instead, the principal consulted with Evergreen School District Human Resources Director Carole Schmitt and then warned Chandler not to play what he called a "Helen Keller lesson" with students alone.

Three months later, Chandler purportedly molested another student, whose parent reported him to police.

The court had sealed Vijayendran's handwritten and typed notes, but a judge released them Thursday, 2½ months after this newspaper filed a California Public Records Act request with the Evergreen School District.

Advertisement

Chandler, who was arrested Jan. 10, remains jailed and awaits trial on five counts of lewd and lascivious acts on a child under age 14.

Vijayendran faces one misdemeanor charge, only the second time in two decades that an educator in Santa Clara County is being charged with failing to report suspected abuse.

In an interview with Vijayendran, Chandler said he called the girl into the classroom to prepare a lesson on Helen Keller, and that the "instructional goal" was to deprive the students of their sight. He said he used a bath sponge on her foot and legs and put a bottle of salty water into her mouth. All the while, his classroom door was open, he told Vijayendran.

"I told Mr. Chandler that his actions were made with very poor judgment," Vijayendran said in her notes. When she described what the girl told her, Chandler replied, "Oh, when you put it that way, it does sound really bad."

Prosecutors allege that a "reasonable person" would have suspected abuse occurred based on the girl's

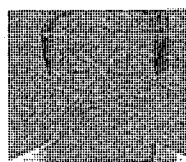
statements, which then obligates a report to authorities.

Eric Gefon, Vijayendran's attorney, disagreed. "Nobody involved in this situation, not the district, the parent nor Lyn thought this was an act of physical abuse," he said.

But Margaret Petros, who advocates on behalf of victims in Santa Clara County, was incensed. "There is no excuse for any person involved in this case not to have reported it," she said. "All these professionals who are paid to protect our children should not just be criminally charged but civilly sued as individuals."

The law doesn't specifically list district-level administrators like Schmitt as mandated reporters.

Click photo to enlarge



Craig Richard Chandler (San Jose Police Department)

### Get free 1:1 investment help.

Right here in San Jose.



Find Us

Guidance provided by Fidelity's advisors is not intended to serve as the primary or sole basis for your investment or tax planning decisions. Fidelity Investments Services, Member NYSE, SIPC. © 2012 FMR LLC. All rights reserved. 581722.11.0

Turn here

Fidelity

Search now.



### Education news

#### Latest headlines

South Bay schools top California's Academic Performance Index

In California schools' test scores, state sees success while feds' No Child Left Behind act sees growing failure

Stanford professor one of two U.S. scientists to win Nobel chemistry prize

Map: 2012 API California school scores

#### Related content

Databases: API | STAR | Exit exams

Search: Data on all California K-12 schools

Database: School, university employee salaries

My Town: Community coverage of schools

Most Viewed Most E-Mailed

(From the last 12 hours)

1. The vice presidential debate in five memes
2. iPhone 5 vs. Galaxy S3: Who wins the battle between the two hottest...
3. Hicks: Justin Bieber naked photo on Internet?
4. Calif. House race with veteran Dems turns physical
5. Editors' Picks: Top stories on MercuryNews.com
6. Kawakami: Buster Posey's next step to Cooperstown

#### News Videos >

AP

San Jose principal's notes: Girl said teacher blindfolded her, put something into her mouth



773

San Jose principal's notes: Girl said teacher blindfolded her, put something into her mouth - San Jose Mercury News

10/12/12 10:43 AM

In the typed notes, Vijayendran wrote that the second-grader's mother was concerned about an incident involving her daughter. With the mother present, Vijayendran interviewed the girl, who described Chandler instructing her to take off her shoes and lie down on the floor while blindfolded. The girl described how Chandler touched her foot with something damp and put something to drink in her mouth.

After hearing the allegation, Vijayendran called the school district's human resources department and asked what to do next, according to the typed notes. Vijayendran said she was directed to keep interviewing the girl and get as detailed an account as possible. The principal complied, and then at the district's instruction called in Chandler.

Vijayendran's notes were also attached to an affidavit of probable cause in the criminal case against her filed by the Santa Clara County District Attorney's Office but were ordered sealed on Aug. 14 by Santa Clara County Superior Court Judge Kenneth L. Shapero at the request of the principal's attorney.

Shapero then ordered them unsealed, and rebuffed a move by attorneys representing Vijayendran and Chandler to block the school district from releasing the notes.

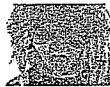
Allison Filo, the prosecutor handling Vijayendran's case, was out of the office Thursday but previously told this newspaper that because the principal did not alert police to the first reported incident another child was molested and potential forensic evidence was lost. Vijayendran has been reassigned to the district office as coordinator of teacher support programs.

Tests by the Santa Clara County crime lab found semen on chairs in Chandler's classroom, according to court files.

Chandler continued teaching until January, when he was arrested by San Jose police. In that second case of suspected abuse, the assistant principal reported the complaint to district administrators, spoke to Chandler and notified Child Protective Services the same day. Separately, the parent called police.

Contact Mark Gomez at 408-920-5885 or [mgomez@mercurynews.com](mailto:mgomez@mercurynews.com). Follow him at [Twitter.com/MarkMoomey](https://twitter.com/MarkMoomey).  
Contact Sharon Noguchi at 408-271-3775 or [snoguchi@mercurynews.com](mailto:snoguchi@mercurynews.com).

Reprint Bookmarks Print Email Font Resize Return to Top



San Jose Residents - If you're trying to avoid foreclosure you better read this!



47yr old man discovers "weird" trick to slash electricity bill by 75%. See video before its banned



(California): You won't believe this 1 weird "loophole" to get car insurance as low as \$7

#### RECOMMENDED FOR YOU

- ▶ Husband, wife escape fire that destroys San...
- ▶ Workday shares debut stunningly higher than IPO...
- ▶ Workday shares debut stunningly higher than IPO...
- ▶ Calif. House race with veteran Dems turns...
- ▶ Hicks: Justin Bieber naked photo on Internet?
- ▶ San Francisco Giants complete historic comeback

#### - SPONSORED LINK -

Man cooking squirrel for lunch sparks fire that destroys eight...  
(From DailyMe.com)

Powered by  
newstogram

FAQ: Article commenting how-tos and tips

19 comments

Add a comment



Call Styl Tattooz - Broadway High School

I really hope he gets the emilwood special treatment

Reply · 26 · Like · October 5 at 12:17am



Call Styl Tattooz - Broadway High School

Lo! I went there to for a bit

Reply · Like · October 5 at 1:45pm



Sampson Mallory · Top Commenter

What is funny is you think it is funny. Keeping it ...

Reply · Like · October 5 at 10:44pm



Pat Oconnell · San Jose, California

Why does she still have a job?

Reply · 11 · Like · October 4 at 10:27pm



Chris Kuebrich

not your school, is it?

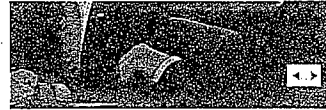
Reply · Like · October 5 at 7:21am



Janet Wright

Thanks for the precious b-day message. Would love to see you.

Reply · Like · October 7 at 6:47pm



#### Recommendations

You need to be logged into Facebook to see your friends' recommendations.



LIVE: 2012 vice presidential debate transcript  
86 people recommended this.



Altarena's 'Fantasticks' delightful, well-acted show in Alameda - San Jose Mercury News  
9 people recommended this.

Facebook social plugin

#### Top Classifieds

Rentals Jobs Real Estate Autos

BIT-TEX 17 Ft. Car Hauler Trailer  
AUTO SWAP MEET  
DODGE 2002 Ram  
FORD 1999 3/4 TON EXTRA CAB  
FORD 1999 3/4 TON EXTRA CAB  
Consignments Wanted  
FORD 2004...  
WILDWOOD 2000 Travel Trailer.

ALL LISTINGS

774

San Jose principal's notes: Girl said teacher blindfolded her, put something into her mouth - San Jose Mercury News

10/12/12 10:43 AM



Matt Pellerin - Top Commenter  
why is the first kid still with her mother? Her mother didn't report it either  
Reply · Like · Tuesday at 1:50pm



Sheri Long - Top Commenter  
REALLY? What a dirty, sick, disgusting perverted pig! A second grade little girl? If I was the judge in his case, I would hang him upside down from his private parts until he rotted away. God says an eye for an eye! This pig deserves just that!  
Reply · 10 · Like · October 4 at 8:52pm



Cindy Miller - Dothan, Alabama  
God says? I thought that was written in a book by someone taking peyote for most of their life. And, even if an "eye for an eye" is what you wish for that sick pervert, then he should get a blind fold and something put in his mouth. Did he hang that little girl upside down by her private parts until she rotted away? What a nice good clean Christian thing to suggest and I would expect nothing less from a sick misguided "believer" like you religious nut! You need some serious help, try Scientology! At least we know who invented THAT religion..... L Ron Howard, and all to win a bet he made with a friend.  
What a load of crap you people will believe. You gonna go away on the next spaceship too? I'll have your Kool-aid ready for you Sheri.  
What else does that book you quote say..... Oh yeah, "Judge not lest ye be judged" and "Thou shalt not kill" etc..... You are a HYPOCRITE and probably a Republican too.  
Reply · 4 · Like · October 4 at 11:27pm



Brad R Dezirt - Top Commenter · Works at USMC  
Cindy Miller "Judge not lest ye be judged" Practice what you preach. YOU are a HYPOCRITE  
Reply · 5 · Like · October 5 at 12:16am



R Gregory Rowley - Top Commenter · Fukuoka-shi, Fukuoka, Japan  
Desit, Just a note here for being judgmental, so perhaps C. Miller was. However, the final expression that I read in your Reply is worded in a judgemental way. I would suggest saying as strongly and more cogently, "I read...." as opposed to how expressed in your reply, "You are..." To make good change in this world, as I read you may wish, it's best to begin a Reply with "I" language as opposed to "you" language. Perhaps something we all can learn. Cindy Miller is more gravely in need of a learning lesson for the illogical post made by her exhibits areas needful.  
Reply · Like · October 5 at 1:50am

View 7 more



Bill Belcher - Top Commenter  
Hangings are the only answer to these villains. St. James Park. Once a month. Bring a picnic lunch please.  
Reply · 10 · Like · October 4 at 9:07pm



Terry Dalley - Top Commenter  
One word CASTRATION enough said.  
Reply · 10 · Like · October 4 at 11:03pm



Marilyn Dalton - Olmsted Falls High School  
Its a good thing that it was not my Granddaughter, that sick pervert would get something in his mouth MY FIST.  
Reply · 9 · Like · October 4 at 8:21pm



Jim More - Works at Full time Dad  
I hope they throw the book at the principle.  
Reply · 8 · Like · October 4 at 11:03pm



Marleen Patrice  
That principle is just as gully for looking the other way! She can't possibly be that stupid, can she?! WHAT IS WRONG WITH PEOPLE??  
Reply · 6 · Like · October 5 at 12:26am



Nancy Eigsti - Menlo Park, California  
I agree with your comment, Marleen. If this had happened to my daughter, I would have raised so much hell until the teacher was fired and had his teaching credentials taken away from him forever. We have to protect our children, as you well know.  
Reply · 1 · Like · October 7 at 6:54pm



Matt Pellerin - Top Commenter  
I agree, but you also must condemn the first parent who agreed with the principle...

775



San Jose principal's notes: Girl said teacher blindfolded her, put something into her mouth - San Jose Mercury News

10/12/12 10:43 AM

Reply · 1 · Like · Tuesday at 1:49pm



Robin Dimock-Kuborssy · Mountain View High School

Fricken FREAK. And the school principal is JUST as bad, the dummie. God, this story makes me want to puke.

Reply · 5 · Like · October 5 at 8:20am



Berta Maria Linhares

Makes me want to puke too! WOW!!!

Reply · 3 · Like · October 5 at 12:44pm



Matt Pellerin · Top Commenter

And the first parent is the worse for not reporting it...

Reply · Like · Tuesday at 1:51pm



Jim Wissick · Top Commenter

This principal needs to be locked up for the MAX.

Reply · 4 · Like · October 4 at 11:45pm



Aberdeen Campbell · Top Commenter · Baker at Eddie's Bakery

Well, he looks guilty just from the photograph here. That must mean HE IS GUILTY! Why have a trail? Why not just cut his nuts off and make potato salad from his flesh? I mean he's OBLIVIOUSLY DRUNK in this picture. I know he's drunk 1000% just like everyone else here does. Because I read we're all at least 80% clairvoyant on the Internet I can just see him pulling a salty Helen Keller on my little granddaughter() with my shotgun to his temple! BAM! Sorry sweaty, those are just pervert pieces. He might as well have a nude child dancing the salsa in the background! Seriously, why spend the money? Everyone here KNOWS he's GUILTY!

Reply · 3 · Like · October 5 at 7:49am



Brenda Haro Lozano · Gavilan College Community Education

Is the CA school system so desperate that they wouldn't do everything possible to get rid of pieces of shit... like this teacher, and dummies like this principal? C'MON! This is disgusting! Also... someone does this to MY child/ren, I'm going STRAIGHT TO THE COPS! We've had enough proof/evidence that the public schools are worthless, it's not like we can count on them to help!

Reply · 3 · Like · October 4 at 11:32pm



Lawrence Cargnoni · Top Commenter · R&D Section Manager at Hewlett-Packard

Outragous... Lyn Vijayendran needs to be fired immediately... there's absolutely no tolerance for this behaviour... she failed as a leader and a steward of our children and especially for these students. Where are the parents of this school? They should be splitting mad and marching on Vijayendran and the district office...

Reply · 2 · Like · October 5 at 8:26am



Avery Horzewski · Cal State Hayward

Outrageous doesn't even begin to describe how bad this is.

Reply · Like · October 5 at 6:10pm



Brad G Mcd · Top Commenter

If that is true that he stuck something in her mouth... something should be stuck in his mouth... it is something red, smokey hot and cowboys use it to brand their cattle... piece of garbage.

Reply · 2 · Like · October 5 at 3:11pm



Tibor Fuyer · Top Commenter · SFS College

This is when the greedy lawyer-dictatorship (called: USA) goes to far.

Reply · 1 · Like · October 4 at 8:34pm

Eloise Imagos · Top Commenter

Tibor Fuyer Your statement is vague. How do you think things went too far?

Reply · Like · October 4 at 8:46pm



Lawrence D. Wood · Top Commenter · President at Terra Resources LTD.

What do you all think the liberal agenda is all about? Abortion?

The whole point is to take the kids out of the purview of the parent, to weaken the ties with family, to make the child less, compromise our rights under the Constitution, to make the State paramount and the arbiter of all things, and then, the liberal freaks can have their way with the kids.

This is the liberal agenda.

Remember, Ruth Bader Ginsberg: a 12 year old girl is old enough to be used for a sex toy by adults.

Quit voting for feel good and guilt and vote for your rights and your kids.

Reply · Like · October 6 at 12:02pm

776

San Jose principal's notes: Girl said teacher blindfolded her, put something into her mouth - San Jose Mercury News

10/12/12 10:43 AM



Matt Pellerin · Top Commenter

And the conservatives want to take the food right out of childrens mouths and let them starve, not give them medical, throw them out onto the street....yea, that's what getting rid of welfare will do

Reply · Like · Tuesday at 1:54pm



Matt Pellerin · Top Commenter

Everyone is saying fry the principle...what about the first parent who agreed with the principle? That parent also failed to report it...

Reply · Like · Tuesday at 1:50pm



Joe Rios · Top Commenter · James Lick High School

@Cindy, you suck you loser!!!!

Reply · Like · October 8 at 1:00pm



MaryJane Perryman

That principal must have thought her career wouldn't survive this type of scandal. She was right, I hope.

Reply · 8 · Like · October 4 at 8:55pm

Facebook social plugin

#### Education

Map: 2012 API California school scores

Stanford professor one of two U.S. scientists to win Nobel chemistry prize

Wealthy schools backer Molly Munger launches attack ad against Gov. Jerry Brown's tax-hike measure

High court looks at race in college admissions

Health, well-being of California's children varies widely based on where they live, a new study reveals

San Mateo swim coach pleads not guilty to sex charges

East Bay mom gains thousands of supporters in effort to help gay son become an Eagle Scout

San Jose principal's notes: Girl said teacher blindfolded her, put something into her mouth

Searching for craig chandler san jose teacher?

2013 Teachers Academy Learn New Ways To Make Math & Science Fun For Your Students.

San Jose Jobs One Search. All Jobs. Find your new job today. Indeed!

Video Courses 4 Teachers Earn graduate credit at an affordable price. \$330 for 3 credits.

Ads by Yahoo

www.sendmyteacher.com/

indeed.com/San-Jose

www.VideoCourses4Teachers.com

Copyright © 2012 - San Jose Mercury News

Place an Ad | About Our Ads | Help/Contact | Site Map | Advertise | Home Delivery | Copyright | Privacy Policy and Terms of Use | About MediaNews Group | RSS | Find San Jose Jobs | Ethics Policy |

About 53°

NEXT ARTICLE IN NEWS

Mr. Florida man accused of returning used enemas

Continue to article...

You Might Like

GotDollyDeals

Another small drop in gas prices at Bay Area pumps



777

San Jose Mercury News » Friday, August 31, 2012

O.B. WHALEY ELEMENTARY

# Sex abuse case widens

Incidents may have begun a year earlier than previously thought, documents show

By Sharon Noguchi and Mark Gomez  
Staff writers

The alleged abuse of children at O.B. Whaley elementary school in San Jose by a teacher could date back at least two years — a year earlier than previously revealed — according to new legal documents filed in the case.

Craig Richard Chandler, 35, has

been charged with five counts of lewd and lascivious acts on a child under age 14 at the K-6 school. Chandler was arrested Jan. 10, initially on suspicion of molesting two girls. After his arrest, prosecutors added charges related to three more children.

In a petition filed Monday, the attorney for one of the accusers sought permission to file a claim for compensation from the Evergreen School District. The petition claims the 10-year-old, who is not named, was molested when she was in Chandler's class from August

2010 through May 2011. That would extend the alleged abuse by more than a year over what had been previously revealed; the initial charges stemmed from incidents last winter and fall.

San Jose attorney B. Robert Allard also claims the district failed to adequately inform parents about suspected molestation, and is seeking permission to file the claim, which would otherwise be late. California law allows up to 12 months from an injury or claim for vic-

See TEACHER, Page 7



**Chandler**  
Former teacher was arrested in January.

## Teacher

*Continued from Page 1*

Alford said the mother, who does not speak English well, did not know until she heard her daughter testify at Chandler's preliminary hearing last May that her daughter allegedly had been molested.

Before that, she only knew that her daughter was being questioned by police, Alford said. "It devastated her to find out about this situation."

He said, "It appears we have a concerted effort to fail to disclose pertinent information to allow parents to take care of their children."

Neither school district nor law enforcement officials would comment on allegations that the parent was not informed.

However, Evergreen Superintendent Kathy Gomez said the district sent home letters with students Jan. 11, referring to alleged unprofessional behavior by a teacher. "Due to the sensitive nature of this ongoing investigation, we are not at liberty to discuss any details," the letter read. Gomez declined to say whether the district was working with parents of the alleged victims. However, the district's January letter said it was making psychologists available to students and staff.

In a rare move, the Santa Clara County Dis-

trict Attorney's Office has charged then Principal Lyn Vijayendran with failing to report a suspicion of child abuse, a misdemeanor. According to a police report, the parent of another alleged victim complained to Vijayendran last fall about Chandler blindfolding her child alone in his classroom and putting things in her mouth.

Vijayendran told Chandler to stop the activity, which he described as a "Helen Keller" lesson, so children could understand what it was to be blind, according to a report by San Jose police Detective Sean Pierce.

The principal has said that she related the parent's statement to Carole Schmitt, director of human resources. Vijayendran since has been reassigned as coordinator of teacher support programs in the district office.

"It was Ms. Vijayendran's responsibility to report suspected abuse to law enforcement," said deputy district attorney Alison Filo. "Passing up the chair at any level does not discharge your duty." She said that it was not clear that anyone other than the principal had the kind of specific information that would trigger a reporting requirement.

Chandler told police that he had been conducting the activity once or twice a year for nine years, ever since he had been at Whaley.

Children reported that Chandler called them into

his room individually at recess. Sometimes, she had them sit on the floor. They graphically described him blindfolding them and putting various things into their mouths. One victim said she felt like she was going to choke. Chandler told police that in choosing volunteers for the lesson, "you have to pick a student you can trust."

A couple of years ago, he said, the principal walked in when he was alone with a boy doing the "test" and the principal told him to keep his door open.

At least one child said that Chandler told her not to tell anyone what happened in the room, police reported. Another said she was afraid to tell anyone what happened with her teacher because she thought she would be arrested. A criminalist from the Santa Clara County crime lab said tests showed semen was found on chairs in Chandler's classroom, according to court files. The criminalist's conclusion is the semen was from Chandler.

Chandler is next scheduled to appear in court Sept. 10 to set a trial date, and is being held without bail in Santa Clara County Jail.

Contact Sharon Noguchi at 408-271-3775 or [snoguchi@mercurynews.com](mailto:snoguchi@mercurynews.com). Contact Mark Gomez at 408-920-5869 or [mgomez@mercurynews.com](mailto:mgomez@mercurynews.com). Follow him at [Twitter.com/MarkMGomez](https://twitter.com/MarkMGomez).

Lawsuit filed in connection with alleged molestation at SJ [www.ktvu.com](http://www.ktvu.com)

8/29/12 11:15 AM

Follow us on

Wednesday, Aug. 29, 2012 | 11:10 a.m.

Hi, (not you?) | [Member Center](#) | [Sign Out](#)

[Sign In or Register](#)



San Jose 67°

SFO Airport 64°

Oakland 64°

Alert

[Severe Weather »](#)

[Radar](#) | [Ext Forecast](#)

Posted: 6:25 p.m. Tuesday, Aug. 28, 2012

## Lawsuit filed in connection with alleged molestation at SJ elementary



### Related

[KTVU.com](http://www.ktvu.com)

**SAN JOSE, Calif.** — As students returned for the first full week of classes at O.B. Whaley Elementary in San Jose, school officials Tuesday were dealing with a new lawsuit while the molestation trial against a former teacher approaches.

The former principal at the school has also been under fire, charged with failing to report the allegations that the accused teacher molested several students to authorities.

Students at O.B. Whaley were hoping for a fresh start as the new school year begins.

780

<http://www.ktvu.com/news/news/crime-law/lawsuit-filed-connection-alleged-molestation-sj-el/nRMj9/>

Page 1 of 2

Lawsuit filed in connection with alleged molestation at SJ - [www.ktvu.com](http://www.ktvu.com)

8/29/12 11:15 AM

But the past is hard to forget after 3rd grade teacher Craig Chandler was arrested in January and charged with sexually abusing five students.

Tuesday, KTVU learned a lawsuit has been filed on behalf of one of the alleged victims against Chandler, the former principal Lyn Vijayendran and the Evergreen Elementary School District.

Attorney Robert Allard told KTVU Chandler had yard supervisors or other children bring students into his classroom one or two at a time for a lesson on Helen Keller.

"She was told to act like Helen Keller and not be able to see things and be able to feel things with either her mouth or her feet," said Allard. "So she did not understand at the time that in hindsight she was being sexually assaulted on a repeated basis."

Last month, the District Attorney's office charged Vijayendran, the principal at the time of the alleged molestation, with a misdemeanor charge for failing to report the incident after a child came forward last October.

The attorney for Vijayendran told KTVU Tuesday that "no one, not the parents, not the district nor my client, who knew the details of the complaint, believed it was an act of sexual abuse."

The Evergreen School District released this statement late Tuesday that read in part: "We want to assure the community we take very seriously any allegations of employee misconduct, especially involving students."

KTVU learned Tuesday that Vijayendran has been reassigned to the district offices and a new principal is in charge at O.B. Whaley.

"You need to supervise. And if you don't supervise, you're going to be held criminally responsible," said Allard. "Or in this case, civilly responsible for your actions, because in the end its the child who pays."

KTVU also found out all employees district wide from custodial staff to administrators have undergone new training on mandatory reporting.

But Allard maintains that for the five alleged victims, it is too late.

## More News

### We Recommend

- Father-daughter trip to Yosemite ends in tragedy ([ktvu.com](http://ktvu.com))
- Cellphone robbery ends with police shooting outside SF church ([ktvu.com](http://ktvu.com))
- SJ schools locked down as police search for armed robbery suspect ([ktvu.com](http://ktvu.com))
- Ex-LA teacher pleads no contest to molesting 13 ([ktvu.com](http://ktvu.com))
- Richmond police search for suspect in teen's murder ([ktvu.com](http://ktvu.com))

### From Around the Web

- Billionaire Has Choice Words for Obama (Moneynews)
- Ryan Seacrest considers Joel McHale's Offer (Random Acts Of Fusion)
- It's Murrdddddaaaaa!!! America's Top 10 Most Dangerous Cities 2012 (Bossip)
- Teen Girl Allegedly Gang Raped on Cruise Vacation Knew Just How to Punish Her Abusers (CafeMom)
- What Your Flight Attendant Won't Tell You (Reader's Digest)

[?]

## Comments

If you would like to post a comment please Sign in or Register



San Jose Mercury News

FRIDAY, JULY 13, 2012

## FAILURE TO REPORT

It's the law to divulge suspicions, but many in Bay Area don't do it

By Julia Prodis Sulek  
and Sharon Noguchi

Staff writers

How could it happen?

To many people, it's nothing short of bewildering that a string of Penn State officials failed to report suspicions that football coach Jerry Sandusky was molesting boys — or that a San Jose elementary school principal did not alert police that a second-grader might have been sexually abused by her teacher.

Yet several disturbing cases around the Bay Area show that when it came time to point a finger at a colleague, teachers and administrators failed to do the right thing.

From Moraga to Palo Alto to San Jose, child sex abuse cases in schools and day care centers have surfaced, alleging that school employees entrusted with the safety of students failed to do what their oaths and the law required: report to police or child protective services when they have a reasonable suspicion that a child has been abused.

Child advocates blame a lack of courage and a lack of training.

"It's not so much about protecting people, but not having the

See ABUSE, Page 6

## Abuse

Continued from Page 1

leadership ability to step up," said Margaret Peros, commissioner of the Santa Clara County Child Abuse Council. "People in general want to get along, and not rock the boat."

Still, as calls to child abuse hotlines across the Bay Area attest, many people do pick up the phone when they have suspicions. In Santa Clara County, about 20,000

calls are logged each month, with more than 60 percent coming from mandated reporters, people required by law to intercede on behalf of children. And more than half of those calls come from school employees.

Tips from concerned people resulted in Contra Costa County investigating 9,961 cases of suspected child abuse and neglect last year.

But even when educators make the call, they often are confused about their responsibilities, said Nicole Huff, policy and planning manager with the Santa

Clara County Social Services Agency. But the training office offers the said is voluntary.

Still, most educators do what they're supposed to do.

Ninety-nine percent of teachers and educators in fact to report," said Kathryn Simun-Towery, assistant district attorney in Santa Clara County. "Many times

the child is only comfortable with the teacher, and they come to school with a story of what's going on at home."

It's unclear exactly why the 1 percent don't report, she said. "There's no one explanation why someone doesn't protect a child."

However, the minute you have a child alone in a classroom, she said, it speaks for itself.

And that's the story that made headlines in San Jose this week: Monday's alleged second-grade teacher was charged with lewd and lascivious conduct for allegedly blindfolding and molesting five children at O.B. Whaley Elementary School.

## MANDATED REPORTERS

California requires people in 40 professions to report suspicions of child abuse, among them:

- Teachers, instructional aides, classified employees, day camp and instructors, youth center employees, day-care employees, foster parents
- Social workers, probation officers and employees of organizations who are in contact with supervised children
- Physicians, psychologists, dentists, nurses, optometrists, osteopaths, podiatrists, paramedics, and medical technicians
- Photographers
- Clergy and custodians of clergy records

In the Evergreen School District, the principal, O.B. Whaley, charged Principal Lynn Vayvarden with failing to report the abuse after a parent approached her. It was the assistant principal, and Whaley, cases brought two months later who called child protective services at

Evergreen. Supervisors, including Superintendent Kathy Gomez, acknowledged the allegations, but administrators did not intervene, training in mandatory reporting last year. But she quickly added, "I can guarantee we will be having training this year."

Still, she defended the principal. "What came to my attention was that the

when Chumane was improperly touched by another teacher. Correal failed to report it.

In another San Jose case now playing out in Santa Clara County Superior Court, attorneys for three girls, allegedly molested by day-care workers Keith Woodhouse, contend that year.

At Santa Clara Unified, instead of training new employees must only acknowledge that they understand the mandatory reporting requirement. And this is a district where a Wilcox High teacher was sent to prison for having sex with a student.

Despite allegations that he knew of the affair and didn't report it, Wilcox Principal Tab Taber wasn't prosecuted.

In fact, mandated reporters simply need to report suspicions to police or child protective services.

Not everyone who is trained at the investigation, however, said Huff.

But Chumane's attorney

of the National Center on Youth Law in Oakland

said there's no penalty for

not training employees

properly. He added that if

any school districts may have

Staff writers: Mathias Garmendia, Gary Paerson contributed to this report.



San Jose Mercury News

WEDNESDAY, JULY 11, 2012

## SEX ABUSE COMPLAINT NOT REPORTED

## In rare move, DA charges school principal

Prosecutor says delay in reporting allegation likely cost evidence

By Mark Gomez  
and Sharon Noguchi  
Staff writers

In an extraordinary move, prosecutors have charged a San Jose principal with failing

to report to police an allegation that a teacher was sexually abusing a second-grader in a classroom.

The Santa Clara County District Attorney's Office on Tuesday filed a misdemeanor charge against Lyn Vijayendran, the principal at O.B. Whaley Elementary School in San Jose. It is only the second

time in two decades that an educator faces charges in the county for not reporting suspected abuse.

Prosecutors say a Whaley parent approached Vijayendran in October about concerns teacher Craig Chandler was behaving inappropriately

See PRINCIPAL, Page 7

"It's baffling that a principal could not conclude that this is child abuse."

Margaret Petros,  
Child Abuse Council  
of Santa Clara County

## Principal

Continued from Page 1

with a student. Instead of contacting police, Vijayendran conducted her own investigation and even told Chandler that the child's parent had complained, prosecutor Alison Filo said.

Vijayendran's attorney, Eric Geffon, challenged prosecutors' characterization and said there were no suspicions that Chandler's behavior constituted abuse.

"We are confident when all of the evidence is examined, Ms. Vijayendran will be cleared of any wrongdoing," he said.

Three months after the parent's complaint, another parent reported suspected abuse by Chandler to a Whaley assistant principal and police. Chandler covered a student's eyes with a blindfold and "put things in her mouth," according to court documents.

Chandler was arrested in January and eventually was charged with five felony counts of lewd and lascivious acts on a child under the age of 14 involving five alleged victims. A criminalist from the Santa Clara County crime lab said tests showed semen was found on chairs in Chandler's classroom, according to court files. The criminalist's conclusion is the semen was from Chandler.

Chandler's case is headed to court Aug. 6. He maintains his innocence, his attorneys have said.

## Lost time

Because Vijayendran did not alert police to the first alleged incident, "Not only was another child molested, but potential forensic evidence was lost," Filo said. "The defendant was given four months to create a defense."

Evergreen administrators were not available to comment on the charges. The district issued a statement that it was cooperating with law enforcement.

Victims' advocates lauded prosecutors. "I am so thrilled that the DA filed charges," said Margaret Petros of the Child Abuse Council of Santa Clara County. In decades of working for children, she said, "I have not heard that happening."

The council offers training for educators on child abuse reporting requirements. "They should know," Petros said. "It's baffling that a principal could not conclude that this is child abuse."

California requires an array of professionals — doctors, teachers, counselors — to report suspicions of child abuse. But determining so-called mandated reporters' responsibilities is difficult. At schools, for instance, teachers must filter out rumors from facts. In other cases, the statute of limitations may run out.

In 2009, police investigated Wilcox High Principi-

pal Tab Taber, in connection with special education teacher Edward Slate's illicit affair with an underage student, Slate pleaded guilty to six felonies. But although people, including Slate, reported they had informed administrators at the Santa Clara school, prosecutors did not file charges against Taber.

In October, a parent reported information to Vjayedran that "we believe is specific conduct that would lead a reasonable person to believe that an act of child abuse had occurred," prosecutor Filo said. The girl's mother showed Vjayedran the jacket that the child was wearing at the time, which had a suspicious stain on it, Filo said, but Vjayedran reportedly decided it was not important.

The mother washed the jacket. "In doing so, it might have lost the best forensic evidence we might have had in this case," Filo said. "Maybe it would have exonerated the defendant. We'll never know."

Mrs. Vjayedran has been cooperative and we do not believe that she intentionally turned her back on a child she knew was being abused," Filo said. But, she added, "It's our position a reasonable person would have known this abuse had occurred."

#### Arrest warrant issued

An arrest warrant has been issued for Vjayedran and Filo expects the principal's defense attorney to arrange for her to surrender. In a statement, the principal's attorney said, "We are disappointed the District Attorney's Office

has chosen to file a misdemeanor charge in this case. Ms. Vjayedran, the child's parents, and the school district, who were all aware of the teacher's conduct, had no way of knowing that the conduct was sexual in nature."

When the second parent complained to the school, she said Assistant Principal Lea Peery's initial response was "Oh my God. Not again," according to the parent's testimony at a preliminary hearing for Chandler.

Peery testified that she never used those words.


She reported the complaint to district administrators, spoke to Chandler and notified Child Protective Services the same day. Separately, the parent called police.



Chandler spent the remainder of the day in the classroom, according to court documents. He was arrested Jan. 10.

Staff writer Robert Salonga contributed to this report. Contact Mark Gomez at [mgomez@mercurynews.com](mailto:mgomez@mercurynews.com) or 408-920-5869. Follow him on Twitter @MarkMGomez.

Principal Charged With Failing to Report Alleged Molestation - Los ... <http://losgatos.patch.com/articles/principal-charged-with-failing-to-r...>

**Going shopping?**  **Grocery Specials**  
Find local specials and coupons you can print. [Start Saving](#)  
Check Patch Grocery Specials for coupons and weekly deals before you go!

 Editor [Shella Sanchez](mailto:shella.sanchez@patch.com) [shella.sanchez@patch.com](mailto:shella.sanchez@patch.com)

 Like  Patch Newsletter [Nearby](#) [Join](#) [Sign In](#)



**LosGatosPatch** 51°

[Home](#) | [News](#) | [Events](#) | [Directory](#) | [Pics & Clips](#) | [Holidays](#) | [Real Estate](#) | [More Stuff](#)

[Police & Fire](#)

## Principal Charged With Failing to Report Alleged Molestation

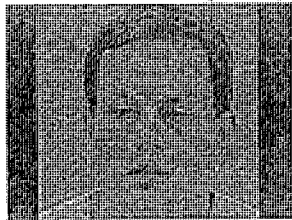
Prosecutors say San Jose principal failed to notify authorities that teacher Craig Chandler was allegedly sexually abusing an elementary school student in a classroom.  
July 11, 2012

Recommend  Tweet 

[Email](#)

[Print](#)

[12 Comments](#)



Related Topics: [Craig Chandler](#), [Lyn Vijayendran](#), and [Santa Clara County District Attorney's Office](#)

What do you think of the charges brought against this school principal for allegedly failing to report abuse suspicions to authorities? [Tell us in the comments.](#)

An area principal is facing charges of failing to report evidence that a teacher molested a student despite learning of the allegations in October of last year.

The Santa Clara County District Attorney's Office said its investigation revealed that principal Lyn Vijayendran, 36, was given clear evidence that teacher Craig Chandler had sexually assaulted a second grade student at [O.B. Whaley Elementary School](#) in San Jose but failed to carry out her legal obligation to report it to police.

Vijayendran was charged Tuesday with a misdemeanor for failure to report child abuse and could face up to six months in jail if convicted, according to the district attorney's office.

Prosecutors said that after learning of allegations that Chandler had molested the student, Vijayendran interviewed the teacher and the girl and told the student's parent that a suspicious stain on the girl's jacket was unimportant, leading the mother to wash the jacket and destroy potential DNA evidence.

"The clear legal responsibility for professionals who hear these terrible allegations is not to call meetings, it is to call 911," Deputy District Attorney Alison Filo said.

The district attorney's office said authorities learned of the allegations in January while Vijayendran was on maternity leave.

At that time, another parent came forward with molestation allegations that were reported to police, who launched an investigation.



The police investigation found a total of five students at the elementary school that reported evidence of being molested by Chandler, according to the district attorney's office.

Chandler was charged in January with five felony counts of lewd and lascivious acts on a child under 14.

—Bay City News Service

Email me updates about this story.

☐ Keep me posted

Recommend  Tweet 

[Email](#)

[Print](#)

786

Principal Charged With Failing to Report Alleged Molestation - Los ...

<http://losgatos.patch.com/articles/principal-charged-with-failing-to-r...>[Follow comments](#)[Submit tip](#)[12 Comments](#)[Alison](#)[8:49 am on Wednesday, July 11, 2012](#)

Unbelievable. It seems that no matter how strict mandated reporting laws are, people invariably will fail to report abusers.

[Flag as inappropriate](#)[Reply](#)[Mckenna Smith](#)[7:28 am on Wednesday, July 11, 2012](#)

All teachers and principals are mandated child abuse reporters and need to carry out their responsibilities properly.

<http://www.mandatedreporter.ca.com/>

California law states that a mandated reporter must make a report to police "whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect."

[Flag as inappropriate](#)[Reply](#)[Alison](#)[7:44 am on Wednesday, July 11, 2012](#)

Ah, but many mandated reporters refuse to speak out against one of their own. Case in point: in the Dr. William Ayres child molestation case in San Mateo, after the doctor was arrested, it turned out that a number of doctors knew he had been molesting boys but didn't report him because as one psychiatrist told a victim's advocate "we didn't want to get involved."

After Ayres was arrested, one of his victims was at a cocktail party where he was introduced to a psychiatrist. The doctor, who did not know that he was speaking to an Ayres victim, said he knew Ayres had been molesting boys because he'd had a patient who'd confided he'd been a victim. The doctor said he didn't report him to the police because the victim was outside the statute of limitations.

[Flag as inappropriate](#)[Reply](#)[LoyolaAlum](#)[8:34 am on Wednesday, July 11, 2012](#)

Perhaps Dr. Susan Englander-Greenberg of Los Gatos has an expert opinion on this topic. Dr. Englander-Greenberg said that at one time 10% of her practice involved Jesuit Center, Los Gatos, where Fr. Jerold Lindner now lives. The number of credibly charged sex abusing Jesuits living at Jesuit Center, Los Gatos at one time or another may be about 10.

[Flag as inappropriate](#)[Reply](#)[Joey Piscitelli](#)[9:09 am on Wednesday, July 11, 2012](#)

In contrast to mandatory reporting laws for teachers, the pedophile friendly laws of California enable clergy/priests in "confession" to escape mandatory reporting freely:

Cal. Penal Code § 11166(d)(1)-(2) (LexisNexis through 2010 Reg. Sess :

"A clergy member who acquires knowledge or reasonable suspicion of child abuse during a penitential communication is not required to make a report. For the purposes of this subdivision, 'penitential communication' means a communication intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

Countless clergy rapists have taken advantage of this ludicrous law.

[Flag as inappropriate](#)[Reply](#)[LoyolaAlum](#)[9:14 am on Wednesday, July 11, 2012](#)

A Jesuit said 60+ cases of Jesuit sexual misconduct were investigated during a 6-year period by a Los Gatos team that included Dr. Susan Englander-Greenberg of Los Gatos at least part of this time.

[Flag as inappropriate](#)[Reply](#)[Jane Darwin](#)[Flag as inappropriate](#)

Principal Charged With Failing to Report Alleged Molestation - Los ... <http://los gatos.patch.com/articles/principal-charged-with-failing-to-r...>

12:18 pm on Wednesday, July 11, 2012

As a former principal I did have time when I had to report allegations and did so. I also will say that teachers and administrators are in the business because we want children to succeed and be safe. Yes there are a few bad apples. But they are luckily few and far between. There are caring professionals out there who are diligent about this.

[Reply](#)

Jesse Ducker

Flag as inappropriate

5:07 pm on Wednesday, July 11, 2012

What a horribly sad story. It's unconscionable that people continue to look the other way on things like this.

[Reply](#)

Joey Piscitelli

Flag as inappropriate

5:43 pm on Wednesday, July 11, 2012

Take note: The Santa Clara DA is more than eager to prosecute a school principal, which is very commendable; but the DA is invisible in court to prosecute Jesuit serial rapists who live in luxury at the Sacred Heart Center.

[Reply](#)

Irene Aida Garza-Ortiz

Flag as inappropriate

10:17 pm on Wednesday, July 11, 2012

That's grounds for being FIRED!

[Reply](#)

Julian Croft

Flag as inappropriate

10:25 pm on Wednesday, July 11, 2012

im kinda scared to have kids because i dont want them to run into people like this...so sick

[Reply](#)

Paul J. Wallin

Flag as inappropriate

12:55 pm on Tuesday, July 17, 2012

When you are a person who is a "mandated reporter" in California you have a legal obligation to report suspected child abuse to the child abuse registry. So long as you "suspect" that child abuse might have taken place you must report. It is not your job to make a decision on the validity of the allegations. It is your job to allow the police and social workers to make the decision as to whether the allegations should result in further investigation. Mandated reporters in California include all occupations that deal with children, all medical professionals, social workers, therapists, doctors, and many other professions that come in contact with minors. If you are a mandated reporter and you fail to report the suspected child abuse you are making a major mistake that can cost you your freedom and your job. No matter what your personal feelings are about the possible consequences to the alleged perpetrator it is not your job to make that "call". It is your legal obligation to immediately make a report and let the authorities decide what to do with it. IF you fail to do that you could be in the same situation as this principal who stands to potentially go to jail and lose his job.

Paul Wallin  
Wallin and Klarich  
Senior Partner  
wklaw.com

[Reply](#)

Leave a comment

Submit

788

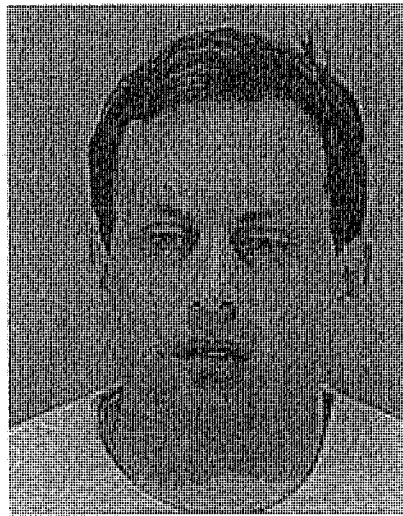


San Jose principal charged for not reporting alleged child molestations... <http://www.examiner.com/article/san-jose-principal-charged-for-not-...>

Examiner.com

## San Jose principal charged for not reporting alleged child molestations

SCHOOL PRINCIPAL | JULY 10, 2012 | BY: SUSIE FOWKES |



Teacher Craig Chandler is facing five felony counts of child molestation. His principal is now also facing charges for failing to report the incidents to police.

Credits: San Jose Police Department

### RELATED TOPICS

- school principal (<http://www.examiner.com/topic/school-principal/articles>)
- failure to report (<http://www.examiner.com/topic/failure-to-report/articles>)
- prosecution (<http://www.examiner.com/topic/prosecution>)
- Santa Clara County District Attorney (<http://www.examiner.com/topic/santa-clara-county-district-attorney/articles>)
- san jose crime (<http://www.examiner.com/topic/san-jose->

A San Jose [school principal \(http://www.examiner.com/topic/school-principal/articles\)](http://www.examiner.com/topic/school-principal/articles) faces criminal charges for allegedly failing to report that a second-grade girl may have been sexually assaulted by her teacher in the classroom.

O.B. Whaley Elementary School Principal Lyn Vijayendran determined, through her own investigation that no crime had occurred, the [Santa Clara County District Attorney \(http://www.examiner.com/topic/santa-clara-county-district-attorney/articles\)](http://www.examiner.com/topic/santa-clara-county-district-attorney/articles)'s Office reported today. But San Jose police investigators learned that four other girls are believed to have been molested by teacher Craig Chandler. One of the victims was

789

San Jose principal charged for not reporting alleged child molestations... <http://www.examiner.com/article/san-jose-principal-charged-for-not-reporting-alleged-child-molestations>

crime/articles)

allegedly molested weeks after Vijayendran learned of the first incident.

Vijayendran, 36, faces a misdemeanor charge for failing to report child abuse (<http://www.dominican.edu/about/faculty/file/childabuselaw.pdf>). If convicted, she faces up to six months in jail.

"The clear legal responsibility for professionals who hear these terrible allegations is not to call meetings, it is to call 911," prosecutor Alison Filo said. "Mandatory reporting laws are on the books to protect our kids."

According to the district attorney's office, the law requires that school administrators, teachers, doctors, nurses, therapists, social workers, and other professionals contact authorities if they know or reasonably suspect that a child has been the victim of abuse.

District attorney investigators believe Vijayendran first learned of the allegations in October 2011 after being given "clear evidence" that Chandler had sexually assaulted a student. Rather than calling police, Vijayendran reportedly opted to interview the victim, asking the victim's mother to bring in the girl's jacket, which had a mysterious stain. The principal then reportedly told the girl's mother the jacket was not important. The mother took it home and washed it, destroying what might have been valuable evidence against Chandler. Vijayendran also reportedly interviewed Chandler herself, potentially undermining a police investigation.

In January 2012, while Vijayendran was on maternity leave, another parent came forward to complain that her child had been molested by Chandler sometime around the Christmas break. Police were notified at that time and learned there were a total of five children who reported evidence of molestations by Chandler.

Chandler is charged with five felony counts of lewd and lascivious acts on a child under the age of 14. He is next scheduled to appear in court for a hearing on August 6.



Susie Fowkes, San Jose Crime Examiner

Susie Dryden Fowkes was born and raised in the Central Coast city of Santa Cruz and studied journalism at San Francisco State University. She has covered Monterey Bay and San Francisco Bay Area news for both radio and print media for more than 10 years. She lives with her traffic reporter husband...

San Jose Principal Accused Of Not Reporting Alleged Teacher Sex Abuse... <http://sanfrancisco.cbslocal.com/2012/07/10/san-jose-principal-accu...>

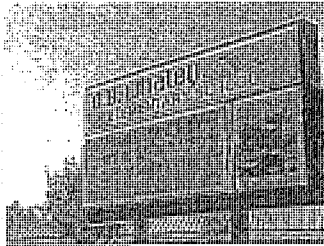
## San Jose Principal Accused Of Not Reporting Alleged Teacher Sex Abuse

July 10, 2012 11:45 PM

Like 6

Share 10

View Comments



O.B. Whaley Elementary School in San Jose. (CBS)

SAN JOSE (CBS SF) — A San Jose principal is facing charges of failing to report evidence that a teacher molested a student despite learning of the allegations in October of last year.

The Santa Clara County District Attorney's Office said its investigation revealed that principal Lyn Vijayendran, 36, was given clear evidence that teacher Craig Chandler had sexually assaulted a second grade student at O.B. Whaley Elementary School but failed to carry out her legal obligation to report it to police.

Vijayendran was charged Tuesday with a misdemeanor for failure to report child abuse and could face up to six months in jail if convicted, according to the district attorney's office.

### Filed Under

Local, News

### Related Tags

Child molestation, Craig Chandler, Crime, Education, Lyn Vijayendran, Molestation, O.B. Whaley Elementary School, San Jose, Sex abuse, Teacher Sex

Listen LIVE

### Featured Local Circulars



Buy Fresh, Tasteful Produce  
Save Mart



Get The Best Deals on Holiday Fare  
Lucky Supermarkets



Great Gifts for Pets  
PetSmart USA



How Video: President Obama Remarks On...

### MUST SEE PHOTO GALLERIES



Connecticut Elementary School...



Huge 3-Alarm Fremont Fire



Celebrities With Prostate...



Rock & Roll Hall of Fame...

Prosecutors said that after learning of allegations that Chandler had molested the student, Vijayendran interviewed the teacher and the girl and told the student's parent that a suspicious stain on the girl's jacket was unimportant, leading the mother to wash the jacket and destroy potential DNA evidence.

KCBS' Mike Colgan Reports:



Click here to play audio



Principal Lyn Vijayendran of O.B. Whaley

"The clear legal responsibility for professionals who hear these terrible allegations is not to call meetings, it is to call 911," Deputy District Attorney Alison Filo said.

The district attorney's office said authorities learned of the

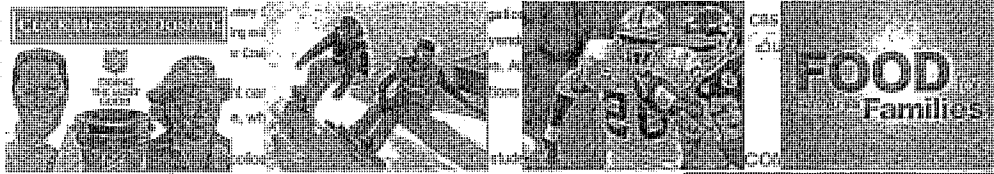
### FOLLOW CBS SAN FRANCISCO

Follow @CBS SF 12K followers

791



San Jose Principal Accused Of Not Reporting Alleged Teacher Sex A... <http://sanfrancisco.cbslocal.com/2012/07/10/san-jose-principal-accu...>



Join Liam & Jan's Red Kettle Team

school that reported evidence of being molested by Chandler. Get the Latest Ski & Snow Conditions

Watch Raiders vs Chiefs On CBS 5 & Live 196

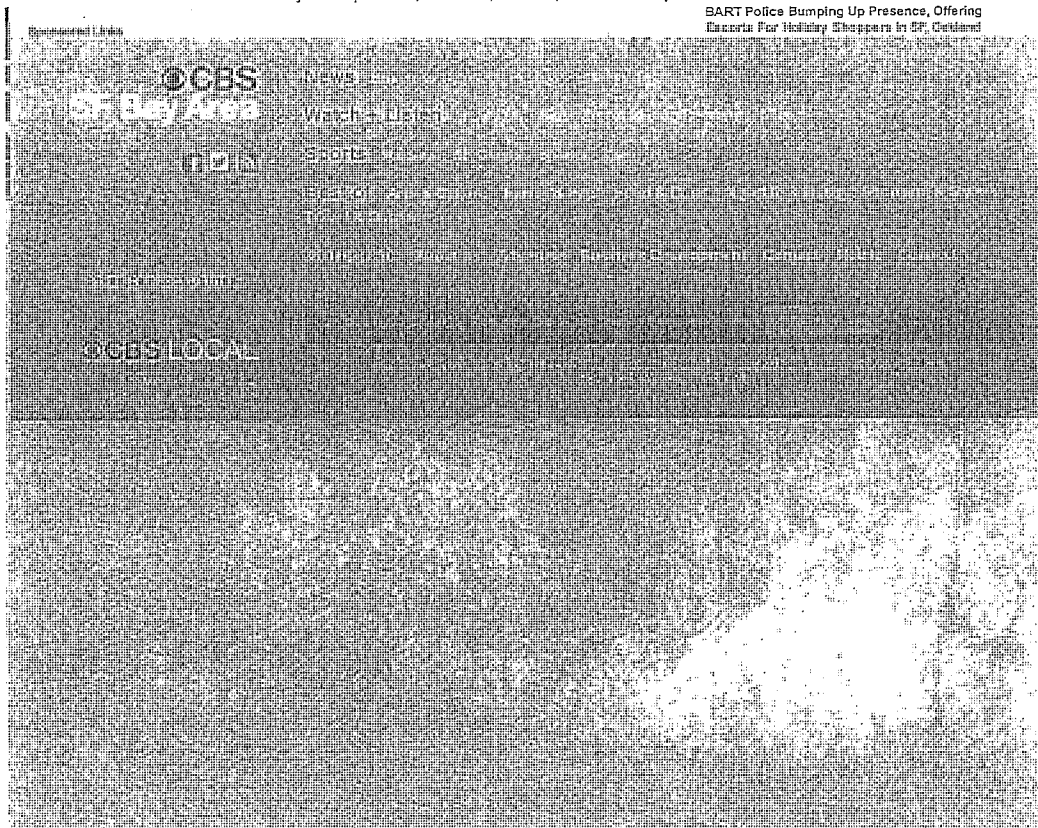
Feed Hungry Families

Chandler was charged with five felony counts of lewd and lascivious acts on a child under 14.

KCBS Cover Story: Teaching Parents, Children About Teen Dating Violence  
51 comments · 19 hours ago

(Copyright 2012 by CBS San Francisco. All Rights Reserved. This material may not be published, broadcast, rewritten, or redistributed.)

BART Police Bumping Up Presence, Offering Canteen For Holiday Shoppers in SF, Oakland



South Bay attorney fights for rights of molestation victims | www.ktvu.com

<http://www.ktvu.com/news/news/crime-law/molestation/nPLw7/>

Follow us on

Thursday, Dec. 27, 2012 | 12:56 p.m.

[Sign In](#) | [Register](#)

Hi, (not you?) | [Member Center](#) | [Sign Out](#)

[Sign In](#) | [Register](#)



San Jose 52°  
SFO Airport 52°  
Oakland 54°

- [StormTracker 2](#)
- [5-Day Forecast](#)
- [Weather Webcast](#)

Posted: 5:50 p.m. Monday, June 4, 2012

## South Bay attorney fights for rights of molestation victims



### Related

[KTVU.com and wires](#)

SAN JOSE, Calif. — A San Jose elementary school teacher pleaded not guilty to five felony sex abuse charges Monday, but the district attorney's office said police should have been notified of the case much earlier.

35-year-old Craig Chandler is accused of lewd and lascivious acts with five children during school hours at OB Whaley Elementary in San Jose. He appeared at the Santa Clara County Hall of Justice to enter his plea.

"All I can tell you is he has pleaded not guilty. And has indicated he is innocent of these charges," said Chandler's defense attorney Brian Madden.

Testimony at Chandler's preliminary hearing revealed a child did come forward in October and made a claim about Chandler

793

South Bay attorney fights for rights of molestation victims | www.ktvu.com

<http://www.ktvu.com/news/news/crime-law/molestation/nPLw7/>

to a school worker, but police were not notified until January.

This lack of response from schools, sports leagues and other organizations has fueled San Jose attorney Robert Allard to fight for sexual abuse victims.

Allard is pushing lawmakers to enhance background checks, have schools and organizations keep a close eye on their workers and ban secret settlements.

"It's not hush, hush, brushed under the table, but rather its brought out to the open so parents like me for example can find out who's coaching my children," said Allard.

Allard is currently representing the family of a 17-year-old student at Aragon High School in San Mateo.

Police arrested 25-year-old Joshua Tatro on Friday. Authorities said he was a water polo coach at the school and started an inappropriate relationship with the girl.

"And like drug addicts go to drugs, pedophiles go to where the kids are," said Allard.

Jancy Thompson was a promising swimmer growing up in the South Bay. She told KTVU her coach molested her starting at the age of 13. The abuse lasted for several years.

Jancy said she didn't realize until later there were abuse claims and a sealed civil settlement prior to her joining his team.

"Who knows what he did prior?" asked Thompson. "People are too afraid to come out and say anything and they think that they are too old."

Jancy and her attorney are hoping for federal charges against the coach and a jury trial for a civil case by the end of the year.

#### More News

##### We Recommend

- Postal worker arrested for stealing thousands of pieces of mail (ktvu.com)
- Police say murder of 17-year-old was out of revenge (ktvu.com)
- Student charged with attempting to rape teacher to appear in court (ktvu.com)
- Private picture of Mark Zuckerberg's family leaked (ktvu.com)
- Three passengers killed in I-280 crash IDed (ktvu.com)
- Mom recovering after being shot during Christmas Eve church service (ktvu.com)

##### From Around the Web

- 6 Markets that Will Rule the Next Decade (Business Without Borders)
- Avoid Getting Sick: Top 8 Germiest Public Places Exposed (Lifescript.com)
- 7 Surprising Signs of an Unhealthy Heart (Caring.com)
- The Simple Truth About Gun Control (The New Yorker)
- America's 10 Best Pizza Restaurants (Relish)
- Passengers and Planes Are Still at JFK, But No One Else Is (Condé Nast Traveler)

[7]

San Jose Teacher Faces 3 Additional Charges of Molesting Students ... <http://sanfrancisco.cbslocal.com/2012/03/03/san-jose-teacher-faces-...>

## San Jose Teacher Faces 3 Additional Charges of Molesting Students

March 3, 2012 10:48 AM

Like 6 Tweet 6 Share 3

View Comments



35-year-old Craig Chandler, a teacher at O.B. Whaley Elementary School in San Jose, is accused of aggravated sexual assault of a child. (San Jose Police Department)


**SAN JOSE (KCBS)** — A San Jose elementary school teacher being held without bail on charges of sexually abusing two students now faces three additional counts against three additional alleged victims.

Craig Chandler, 35, taught at O.B. Whaley Elementary School for nine years, was arrested in January, originally charged with two counts of lewd and lascivious conduct on children under 14.

Three more girls have come forward with allegations that they were molested by Chandler.

Deputy District Attorney Allison Filo said all five victims were from his second and third-grade class and that on Friday morning an amended complaint with the additional counts was filed.

KCBS' Mike Colgan Reports:

 Click here to play audio

"It's inconceivable for something like that to happen on school grounds," Filo said. "I think every parent has a right to send their child to school with the expectation that they'll not only receive an education, but that they'll be safe," she added.

Filo commented that he violated his position of trust and that what he did is every parent's worst nightmare.

Chandler has been held without bail for the last two months and faces life in prison.

He's scheduled to enter a plea on March 16th. His attorney Steven Clark, said his client continues to maintain his innocence.

(Copyright 2012 by CBS San Francisco. All Rights Reserved. This material may not be published, broadcast, rewritten, or redistributed.)

### Sponsored Links



**Power Companies Hate This**  
Power companies are scared people will get free power with this device  
[HendershotGenerator.com](http://HendershotGenerator.com)



**Official Raiders Card**  
Apply Now to Earn 10,000 Bonus Points After First Use w/ The NFL Extra Points Credit Card.  
<http://www.nflstrapoints.com>

[Buy a link here](#)

 Listen LIVE

### MORE FROM CBS

NorCal Murder Suspect Lived With Girlfriend's Rotting Corpse

Sierra LaMar Kidnapping Suspect Charged In 3 More Attacks

Teen Stabbed At San Jose Christmas In The Park Event

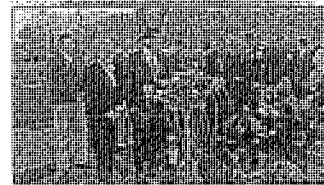
### FROM AROUND THE WEB

Hotels' Strangest Forgotten Items (Travel + Leisure)

'That '70s Show' Star Lisa Robin Kelly Arrested... (MamasLatinas)

Johnny Manziel Girlfriend: Sarah Savage Pictures (Zimbio)

### VIDEO NEWS



Raw Video: Lt. Col. Bailey Rasmussen Ch...

### MUST SEE PHOTO GALLERIES



Connecticut Elementary School...



Huge 3-Alarm Fremont Fire



795

12/14/2012 2:07 PM



Three more girls say San Jose teacher molested them - 5 - Jose Mercury News

3/8/12 11:57 AM

SIGN IN | REGISTER | NEWSLETTERS

MercuryNews.com

Like 23k eEdition / Subscriber Services  
Mobile | Mobile Alerts | RSSMAKE-A-WISH  
CHILDREN'S HOPES FOUNDATIONShare the  
Power  
of a Wish(7 days a week)  
1.855.623.WISH  
www.WheelsForWishes.org

NEWS BUSINESS TECH SPORTS ENTERTAINMENT LIVING OPINION PUBLICATIONS MY TOWN HELP

JOBS CARS REAL ESTATE CLASSIFIED SHOPPING

Site Web Search by YAHOO!

San Jose, CA Now 61°F

Apartments  
Commercial Properties  
Mortgage Rates  
List A Home  
zip

today's DEALS Walmart sears

Recommend Send Be the first of your friends  
to recommend this.

0 Share Tweet 0

## Three more girls say San Jose teacher molested them

By Tracey Kaplan  
tkaplan@mercurynews.com  
Posted: 03/02/2012 03:01:24 PM PST  
Updated: 03/02/2012 10:26:48 PM PST

Three more elementary school girls have told police that a San Jose teacher sexually abused them, prompting prosecutors to file new charges against the man Friday.

Craig Richard Chandler now faces five felony counts of lewd and lascivious conduct in connection with five alleged female victims at O.B. Whaley Elementary School.

All the children are younger than 10 years old, prosecutor Alison Filo said.

Chandler, 35, has been in jail without bail since he was arrested Jan. 10 after the first girls reported being molested. The children described being blindfolded during the assault, a source said.

Chandler's attorney, Steven Clark, said his client will plead not guilty at his next court hearing March 16. He is on paid administrative leave, per Evergreen School District policy.

"Mr. Chandler has maintained his innocence throughout this case and nothing about the amended complaint has changed that," Clark said.

Filo said the three additional girls came forward almost immediately after police began questioning all the students at the school, but prosecutors waited until the investigation was complete to tie the new charges. Chandler taught a combined second- and third-grade class.

Filo said the short time between the first set of reports and the second bolstered prosecutors' confidence that the new information was not tainted by what the first children had said.

A judge has sealed a police report that provides

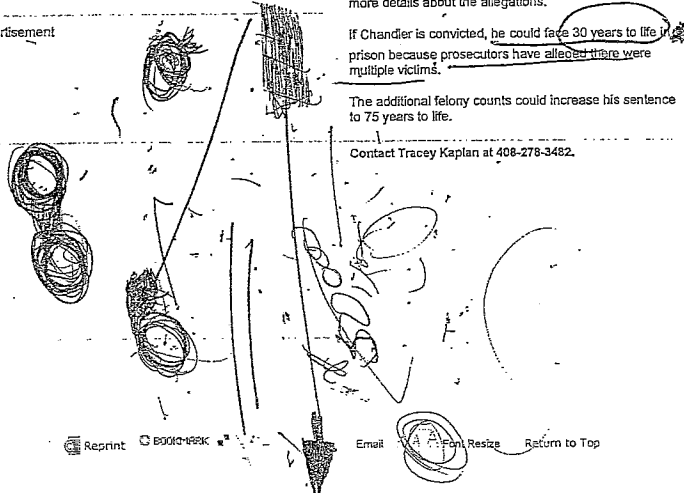
more details about the allegations.

If Chandler is convicted, he could face 30 years to life in prison because prosecutors have alleged there were multiple victims.

The additional felony counts could increase his sentence to 75 years to life.

Contact Tracey Kaplan at 408-278-3482.

Advertisement



Reprint

B0013469K

Email

Font

Resize


Return to Top

RECOMMENDED FOR YOU

Click photo to enlarge



San Jose police arrest teacher, Craig Richard Chandler, on... (San Jose Police Department)



MAKE-A-WISH  
CHILDREN'S HOPES FOUNDATION

Donate Your Car  
to benefit the Make-A-Wish Foundation

- We accept all vehicles running or not
- We also accept boats and RV's
- Free vehicle pick-up
- Tax deductible

(7 days a week)  
1.855.623.WISH  
www.WheelsForWishes.org

ONE FREE DRAWER  
REPLACEMENT WITH MINIMUM  
PURCHASE OF 4 ROLL-OUTS  
WE WELCOME  
ALL JOBS-SMALL OR BIG

## Crime and courts

## Latest headlines

- San Jose: Teens accused killing dog during beating won't be charged as adults
- Dante's restaurant accused of criminal negligence toward Tahoe-bound travelers
- Pacificas cops kill another pit bull, this time for attacking car
- Sunnyvale police: Mother killed 22-year-old autistic son, then herself

## Daily police blotter

Police Blotter  
Follow @svcrime 354 followers

## Related features

Interactive map: South Bay crime reports  
Map: San Jose homicides

## Most Viewed

(From the last 12 hours)

1. California suddenly matters after Super Tuesday fails to decide GOP...
2. Tech Ticker: Facebook boosts mobile audience, suit against Apple...
3. New Santa Clara County schools chief's salary: \$299,500
4. 'Hunger Games' update: Kravitz sees present day in apocalyptic story
5. Sunnyvale police: Mother killed 22-year-old autistic son, then herself
6. From the Archives: Sharks rout Avalanches, take 3-2 series lead

## Recommendations

796

Three more girls say San Jose teacher molested them - San Jose Mercury News

3/8/12 11:57 AM

#### RECOMMENDED FOR YOU

- Firefighters battle apartment fire near UC...
- Tech Ticker: Facebook boosts mobile audience...
- Cops: Pennsylvania man used transmitter to...
- Tim Kawakami: Buster Posey looks ready - but...
- Gov. Jerry Brown visits downtown Fairfax
- Apple, five book publishers face Justice...

- SPONSORED LINK -  
Anjelice Huston to Sing on SMASH  
(From Dailykix.com)

Powered by  
newstagram

You need to be logged into Facebook to see your friends' recommendations.

- Public safety employees among highest paid in Palo Alto - San Jose Mercury News  
13 people recommend this.
- Wickedly Irreverent fortune cookies a popular treat - San Jose Mercury News  
6 people recommend this.

Facebook social plugin

FAQ: Article commenting how-tos and tips


Recommend Be the first of your friends to recommend this.


#### Top Classifieds


RENTALS JOBS REAL ESTATE AUTOS


JEEP 2009 Custom Sierra  
Consignments Wanted  
2000 Bayliner...  
VW 2000 Jetta GLX \$4900  
Chevrolet  
CHEVROLET 1993 CAMARO QUICK SALE  
FORD 2006 Mustang GT  
CHRYSLER 2002...


ALL LISTINGS


 Sarah Culbertson - Top Commenter - Grace M.Davis High  
I'm blown away with these teachers, police...etc. that commit crimes and are put on "paid administrative leave"...they continue to get paid for committing crimes???smh  
Reply - 5 - Like - March 2 at 4:27pm


 Tara Yael Samuels - Finger  
Just so, so disgusting.  
Reply - 3 - Like - March 2 at 5:09pm

 Brad R Dezirt - Top Commenter - Works at USMC  
His stay in prison is going to be hell. Too bad.  
Reply - 2 - Like - March 2 at 5:56pm

 Robert Cortese - San Jose, California  
This guy should not be on paid administrative leave. I'm not OK with that.  
Reply - Like - March 3 at 11:58am

 Anne Poche - National university  
disgusting....  
Reply - Like - March 3 at 1:23pm

 Kevin Riley O'Keeffe - Top Commenter - Sioux Falls, South Dakota  
He should be paid, because he's innocent until proven guilty. Which he doubtless will be, at which point his life will be effectively over. So a few extra bucks floated his way in the meantime, in order to uphold one of our sacred Constitutional principles, is money very well spent.  
Reply - 1 - Like - March 3 at 1:34pm

 Juan Timer - Top Commenter  
looks like he got beat up in jail already lol  
Reply - Like - March 2 at 3:30pm

Facebook social plugin

#### Crime and Courts »

San Jose: Teens accused killing dog during beating won't be charged as adults  
Dante's restaurateur accused of criminal belligerence toward Tahoe-bound travelers  
Pacifica cops kill another pit bull, this time for attacking corgi  
Extra time to apply for Santa Clara County civil grand jury  
Bike-riding Sunnyvale burglar picked the wrong house  
D.A.: San Mateo man on trial for rape of orphan relative

[http://www.mercurynews.com/crime-courts/ci\\_20089495](http://www.mercurynews.com/crime-courts/ci_20089495)

Three more girls say San Jose teacher molested them -- San Jose Mercury News

3/8/12 11:57 AM

Santa Cruz judge agrees to dismiss two counts for escaped felon accused of holding up teacher, keeping couple hostage

FBI chief says agency deactivating many GPS trackers following court ruling

**Related Results**

[OMVS On Verge of Breakout](#) Safety & Protection Industry Good Move For Your Portfolio, Buy Today!

[police blotter](#) View Anyone's Criminal History! Police Arrest Reports In Seconds.

[Find Any Court Records](#) 1) Search Court Records Instantly 2) Find Anyone's Court Records!

Ads by Yahoo

[www.TopMicroCapStock.com](http://www.TopMicroCapStock.com)

[www.InstantCheckMate.com](http://www.InstantCheckMate.com)

[Court-Records.CheckGround](#)

Copyright © 2012 - San Jose Mercury News

[Place an Ad](#) | [About Our Ads](#) | [Help/Contact](#) | [Site Map](#) | [Advertise](#) | [Home Delivery](#) | [Copyright](#) | [Privacy Policy](#) and [Terms of Use](#) | [About MediaNews Group](#) | [RSS](#) | [Find San Jose Jobs](#) | [Ethics Policy](#) | [About Bay Area News Group](#) | [My Yahoo!](#)

[MediaNews Group](#) WEBSITE  
MediaNews Group - Bay Area News Group

23k 11K 0 Shares 0 Tweets Email Mobile Apps PI

More victims come forward in San Jose teacher molestation case | ab... [http://abclocal.go.com/kgo/story?section=news/local/south\\_bay&id=...](http://abclocal.go.com/kgo/story?section=news/local/south_bay&id=...)

- [Live Doppler 7 HD Video](#)
- [Street-Level Weather](#)
- [MORE TOPICS +](#)

## • Video & Photos

- [Video on Demand](#)
- [Live Video](#)
- [Photo Galleries](#)
- [Most Popular Video](#)
- [Raw Video](#)
- [MORE TOPICS +](#)

## • ABC7 Extras

- [About ABC7 & News Team](#)
- [Prepare NorCal](#)
- [Bay Area Traffic](#)
- [Contests & Promotions](#)
- [Community](#)
- [Jobs](#)
- [TV Listings](#)
- [ABC Shows](#)
- [Live Well Network](#)

## • Marketplace

- [San Francisco Area Jobs](#)
- [Classifieds](#)
- [Get Coupons](#)

<input type="text" value="Enter search phrase"/>
<input type="button" value="SEARCH"/>

[SEE IT ON TV? CHECK HERE](#)

[South Bay News](#)



# More victims come forward in teacher molestation case


Friday, March 02, 2012  
Tags:

799



More victims come forward in San Jose teacher molestation case | ab... [http://abclocal.go.com/kgo/story?section=news/local/south\\_bay&id=...](http://abclocal.go.com/kgo/story?section=news/local/south_bay&id=...)

[san jose](#), [crime](#), [children](#), [south bay news](#), [karina rusk](#)

- [Comment Now](#)
- [Email](#)
- [Print](#)
- [Report a typo](#)
- 



[Karina Rusk](#)

More: [Bio](#), [E-mail](#), [Facebook](#), [Twitter](#), [News Team](#)

SAN JOSE, Calif. (KGO) -- More young children have come forward to accuse a San Jose elementary school teacher of molesting them. Friday, the district attorney's office filed new charges against Craig Chandler.

Police and prosecutors always believed there were more victims and Friday's complaint confirms that.

Earlier this year, two young students accused Chandler of molestation. Now parents at O.B. Whaley Elementary School in San Jose are stunned again as police say they found three more victims.

#### Related Content

[Story: More victims suspected in teacher molestation case](#)

[Story: School teacher's arrest shocks parents](#)

[Story: San Jose teacher arrested for child molestation](#)

[more: CRIME MAPS: Track crime in your neighborhood](#)

"I don't even know what to say about that; I'm thankful my daughter is not in his class, I just hope he gets what he deserves," parent Melissa Duran said.

The district attorney's office filed the three additional sexual assault charges in court Friday morning. All five counts involve girls between the ages of seven and nine. From the dates, it appears, three were current students and two former students.

Chandler had taught at Whaley for nine years, most recently to second and three graders.

"These crimes are always horrible, but they are particularly heinous when they occur in an environment of trust where parents expect that their children will be, at the very least, safe," deputy district attorney Alison Filo said.

The complaint says the five acts took place between September 2010 and January of this year.

Chandler's defense attorney says he will seek to question the children in open court.

"To determine what the allegations here and what really happened and we believe when that's done, that Mr. Chandler will be able to show he never molested a child, ever," Steven Clark said.

Some parents say they have used the disturbing allegations to talk to their own kids about a difficult subject.

More victims come forward in San Jose teacher molestation case | ab... [http://abclocal.go.com/kgo/story?section=news/local/south\\_bay&id=...](http://abclocal.go.com/kgo/story?section=news/local/south_bay&id=...)

"I told her, 'Nobody can touch you, that if somebody touches you, you tell mommy,'" parent Blanca Rodriguez said.

The details of the alleged crimes have been sealed. Prosecutors say they are confident with their case.

"Kids are amazing, they do a great job, they're incredibly resilient we believe we have legitimate victims in this case," Filo said.


The next court date is March 16, at which time Chandler is scheduled to enter a plea. If convicted of even just two of the five counts, Chandler could face a possible life sentence.

(Copyright ©2012 KGO-TV/DT. All Rights Reserved.)

[Get more South Bay News »](#)

Tags:

[san jose](#), [crime](#), [children](#), [south bay news](#), [karina rusk](#)

- [Comment Now](#)
- [Email](#)
- [Print](#)
- [Report a typo](#)
- 

## Sorry, something went wrong.

More From ABC7 News

- [Christmas baby delivered early by San Jose dad](#)
- [Police investigate multiple threats against teacher](#)
- [4 firefighters shot, 2 dead in western NY](#)
- [Homeless man finds hope, opportunity in bottle](#)
- [Tim Lincecum cuts off his long locks](#)
- [Brazen thieves steal from stores during holiday season](#)

From Around the Web

- [Kate Middleton's Ring - Close Up Photos \(StyleBistro\)](#)
- [Passengers and Planes Are Still at JFK, But No One Else Is \(Condé Nast Traveler\)](#)
- [Why Are People Hoarding Coins? \(Investopedia\)](#)
- [What You May Not Know About Buffet Food \(Lifescrypt.com\)](#)
- [What Does Your Car Color Say About You? \(iVillage\)](#)
- [10-Year-Old Girl Goes Missing After Flying Alone on United Airlines \(Everyday Family\)](#)

0 comments

[Post A Comment](#)

12

800

More victims suspected in San Jose teacher molestation case | abc7ne... [http://abclocal.go.com/kgo/story?section=news/local/south\\_bay&id=...](http://abclocal.go.com/kgo/story?section=news/local/south_bay&id=...)

- [Live Doppler 7 HD Video](#)
- [Street-Level Weather](#)
- [MORE TOPICS +](#)

## • Video & Photos

- [Video on Demand](#)
- [Live Video](#)
- [Photo Galleries](#)
- [Most Popular Video](#)
- [Raw Video](#)
- [MORE TOPICS +](#)

## • ABC7 Extras

- [About ABC7 & News Team](#)
- [Prepare NorCal](#)
- [Bay Area Traffic](#)
- [Contests & Promotions](#)
- [Community](#)
- [Jobs](#)
- [TV Listings](#)
- [ABC Shows](#)
- [Live Well Network](#)

## • Marketplace

- [San Francisco Area Jobs](#)
- [Classifieds](#)
- [Get Coupons](#)

Enter search phrase

SEARCH

SEE IT ON TV? CHECK HERE

[South Bay News](#)



# More victims suspected in teacher molestation case


Friday, January 13, 2012

Tags:

801

More victims suspected in San Jose teacher molestation case | abc7ne... [http://abclocal.go.com/kgo/story?section=news/local/south\\_bay&id=...](http://abclocal.go.com/kgo/story?section=news/local/south_bay&id=...)

[san jose](#), [crime](#), [children](#), [south bay news](#), [david louie](#)

- [Comment Now](#)
- [Email](#)
- [Print](#)
- [Report a typo](#)
- 



[David Louie](#)

More: [Bio](#), [E-mail](#), [Facebook](#), [Twitter](#), [News Team](#)

SAN JOSE, Calif. (KGO) -- A San Jose elementary school teacher appeared in court Friday to face child sex charges. Craig Chandler has been teaching at Whaley Elementary for nine years. In San Jose there is word that there may be more victims.

When police first arrested Chandler on Tuesday, they said they knew of one victim. Now, the deputy district attorney says there may be others.

Chandler appeared subdued when he appeared in Santa Clara County Superior Court Friday afternoon. He's accused of sexual assault against a child between August and October of last year. It's not known if the victim was a student in his combined class of 2nd and 3rd graders.

#### Related Content

[Story: School teacher's arrest shocks parents](#)

[Story: San Jose teacher arrested for child molestation](#)

[more: CRIME MAPS: Track crime in your neighborhood](#)

His defense attorney asked that a three-page police report be sealed. Judge Alden Danner granted that request. As San Jose police worked on the case, it appears that other suspected victims have surfaced. That has not been publicly announced earlier, but it was revealed when the charges levied against Chandler were filed in court. Deputy District Attorney Alison Filo provided confirmation after the short court appearance.

**Alison Filo:** There's a special allegation under penal code section 667.61 which alleges multiple victims, such that he is eligible for life in prison.

**Louie:** You're alleging that there are multiple victims out there?

**Filo:** We are alleging that there are multiple victims.

"Just this morning I was given a number of police reports. We're just reviewing those reports now. I will say that Mr. Chandler is very devastated by these allegations. We are going to be vigorously defending him," said

Chandler did not enter a plea. His arraignment has been rescheduled for Jan. 31st -- 18 days from now. He's being held without bail.

The court also approved a protective order that bars any contact between Chandler and the victims or their families. We're told that is a routine step taken in this kind of case.

802


More victims suspected in San Jose teacher molestation case | abc7ne... [http://abclocal.go.com/kgo/story?section=news/local/south\\_bay&id=...](http://abclocal.go.com/kgo/story?section=news/local/south_bay&id=...)

(Copyright ©2012 KGO-TV/DT. All Rights Reserved.)

[Get more South Bay News »](#)

Tags:

[san jose](#), [crime](#), [children](#), [south bay news](#), [david louie](#)

- [Comment Now](#)
- [Email](#)
- [Print](#)
- [Report a typo](#)
- 

Recommend Send

5 people recommend this. Be the first of your friends.

More From ABC7 News

From Around the Web

- [4 firefighters shot, 2 dead in western NY](#)
- [Mom shot shielding kids at church on Christmas Eve](#)
- [Storm whips into Northeast bringing snow, rain](#)
- [Driver to be arrested in triple-fatal crash on NB I-280](#)
- [Tim Lincecum cuts off his long locks](#)
- [UPS driver caught stealing iPad delivered by FedEx](#)
- [What You May Not Know About Buffet Food \(Lifescrypt.com\)](#)
- [Kate Middleton's Ring - Close Up Photos \(StyleBistro\)](#)
- [What Does Your Car Color Say About You? \(iVillage\)](#)
- [UPS delivery man steals iPad Mini after FedEx delivered it \(Digital Trends\)](#)
- [Lost Pet Parakeet Returned After Telling Cops its Address \(Petside.com\)](#)
- [7 Surprising Signs of an Unhealthy Heart \(Caring.com\)](#)

1 comments

[Post A Comment](#)

1 [erellamas](#) 2/3/12 9:33 AM PST

What's going on with this case? There was a hearing on 1/31 and there haven't been any updates.

[Mark As Violation](#)

(Max. 500 Characters)

abc7news.com and its parent and affiliated companies are not responsible for the content of comments posted above or for anything arising out of use of the above comments or other interaction among the users. While we may delete comments and block or take other action against users who we determine at our discretion have violated our rules, we cannot always do so. Please see our [Terms of Use](#) for additional policies applicable to these comments.

[Post](#)

803

Prosecutor Says SJ Teacher Had Multiple Sex Abuse Victims « CBS ... <http://sanfrancisco.cbslocal.com/2012/01/13/prosecutor-says-sj-teach...>

## Prosecutor Says SJ Teacher Had Multiple Sex Abuse Victims

January 13, 2012 3:07 PM

Like 0 Tweet 1 Share 8 View Comments



35-year-old Craig Chandler, a teacher at O.B. Whaley Elementary School in San Jose, is accused of aggravated sexual assault of a child. (San Jose Police Department)

SAN JOSE (CBS SF) — A San Jose elementary school teacher charged with lewd acts on a child is being accused of having multiple victims, prosecutors said Friday.

Craig Chandler, 35, appeared in court in a brown jumpsuit Friday afternoon to be arraigned on two felony charges of lewd acts on a child.

Chandler was arrested on Tuesday night at his home in San Jose on suspicion of several counts of aggravated sexual assault involving a child in the 7- to 8-year-old age range.

Filed Under  
Local, News

Related Tags

Charges, Child molestation, Craig Chandler, Crime, Molestation, O.B. Whaley Elementary School, San Jose, Sex abuse, Sexual assault, Teacher

Prosecutor Alison Philo Friday said multiple victims have been identified.

"We have probable cause to believe that more than one victim was involved," Philo said.

She said Chandler could face a maximum sentence of life in prison if convicted on the charges. She would not comment on the children's gender and age, but said they are all younger than 14.

Chandler's attorney, Steven Clark, said that Chandler would "deny the allegations vehemently."

"Mr. Chandler's very devastated by these allegations," he said. "We asked that the police reports remain under seal until we have an opportunity to review the case and the judge has agreed to do that."

Chandler is suspected of committing at least one of the crimes against an O.B. Whaley Elementary School student at the campus at 2655 Alvin Ave. between August and October, police said.

Investigators have not released the child's age or gender.

According to police, Chandler teaches a second and third grade combination class at O.B. Whaley and has been teaching at the school for the past nine years.

Listen LIVE

### Top Sponsored Articles

How Cruise Lines Fill All Those Unsold Cruise Cabins

How to Speed Up Your PC - Tricks Manufacturers Don't Want You to Know

How to Make the First Date a Lot More Fun and a Lot More Successful



### MUST SEE PHOTO GALLERIES



Connecticut Elementary School...



Huge 3-Alarm Fremont Fire



Celebrities With Prostate...



Rock & Roll Hall of Fame...

### Sponsored Links



Power Companies Hate This  
Power companies are scared people will get free power with t...  
HendershotGenerator.com



Official Raiders Card  
Apply Now to Earn 10,000 Bonus Points After First Use w...  
<http://www.rftextrapoints.com>



Mom's Bed Bug Solution  
California: Find Out How to Prevent and Remove Bed Bugs Permanently.  
BedBugAlerts.com

Buy a link here

### FOLLOW CBS SAN FRANCISCO

Follow @CBS SF 12K followers

804



Prosecutor Says SJ Teacher Had Multiple Sex Abuse Victims « CBS ... <http://sanfrancisco.cbslocal.com/2012/01/13/prosecutor-says-sj-teach...>



Join Liam & Jan's Red Kettle Team

Get The Latest Ski & Snow Conditions for the Santa Clara County Area

Watch Raiders vs Chiefs on CBS & Live 186 Mission

Right Things Now, Help Feed Hungry Families

424 comments - 5 hours ago

(Copyright 2012 by CBS San Francisco and Bay City News Service.

All rights reserved. This material may not be published, broadcast, rewritten or redistributed.)

KCBS Cover Story: Teaching Parents, Children About Teen Dating Violence

51 comments - 19 hours ago

Get Great Tickets to the Raiders vs Chiefs  
Bay Tickets - Tickets Are Verified by Ticketmaster

BART Police Cramping Up Progress, Offering Escorts For Holiday Eveens in SF, Oakland



Arraignment Set For San Jose Teacher Accused Of Sexual Assault «... <http://sanfrancisco.cbslocal.com/2012/01/11/arraignment-set-for-san-...>

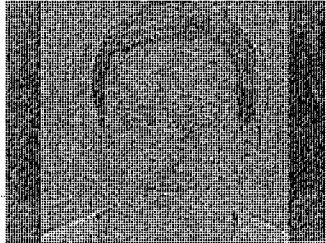
## Arraignment Set For San Jose Teacher Accused Of Sexual Assault

January 11, 2012 8:07 PM

2 Like 0 Tweet 2

Share

View Comments



35-year-old Craig Chandler, a teacher at O.B. Whaley Elementary School in San Jose, is accused of aggravated sexual assault of a child. (San Jose Police Department)

**Filed Under**  
Local, News

**Related Tags**

Craig Chandler, Crime, San Jose, Sexual assault, Teachers

**SAN JOSE (CBS SF)** — A San Jose elementary school teacher who was arrested on Tuesday on suspicion of aggravated sexual assault of a child is expected to be arraigned on Friday.

Craig Chandler, 35, was arrested at his home in San Jose on Tuesday night on suspicion of several counts of sexual assault involving at least one child in the 7- to 8-year-old age range, according to police.

▶ Listen LIVE

### Top Sponsored Articles

How to Get Your Music Collection to Work For You

How to Make the First Date a Lot More Fun and a Lot More Successful

New Muscle Building Science Lets Smaller Guys Bulk Up Fast



### MUST SEE PHOTO GALLERIES



Connecticut Elementary School...



Huge 3-Alarm Fremont Fire



Celebrities With Prostate...



Rock & Roll Hall of Fame...

© © ©

### FOLLOW CBS SAN FRANCISCO

Follow @CBS SF 12K followers

Prosecutors have not yet filed charges against Chandler, but he is set to be arraigned on Friday afternoon, said Santa Clara County District Attorney's Office spokeswoman Lisa McCrary.

He is being held without bail at Santa Clara County Main Jail.

Chandler is suspected of committing the crime against an O. B. Whaley Elementary School student at the campus between August 2011 and October 2011, police said.

Investigators have not released the child's age or gender.

According to police, Chandler teaches a second and third grade combination class at O.B. Whaley Elementary School, located at 2655 Alvin Ave., and has been teaching at the school for the past nine years.

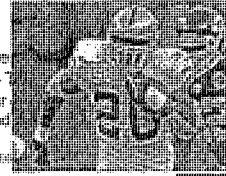
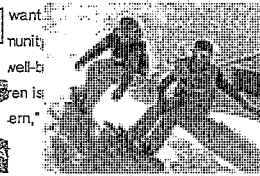
San Jose police Sgt. Jason Dwyer said there may be additional victims.

The Evergreen School District posted a statement on its website Wednesday stating that Chandler has been placed on leave "in accordance with district protocol."

806



Arraignment Set For San Jose Teacher Accused Of Sexual Assault «... <http://sanfrancisco.cbslocal.com/2012/01/11/arraignment-set-for-san-...>



Join Liam & Jan's Red Kettle Team

Anyone who may have been victimized by Chandler or has information about the case is asked to contact Detective Sean Pierce at (408) 577-4000. Those who wish to remain



Official Red Raiders vs Chiefs Apply Now to Earn 10,000 Bonus Points After First Use w... <http://www.nflredpoints.com>

Help Feed Hungry Families 424 comments - 5 hours ago

KCBS Cover Story: Teaching Parents, Children About Teen Dating Violence 51 comments - 18 hours ago

Mom's Bed Bug Solution California Find Out How to

SANT Police Bumping Up Prizes, Giving Bigger For Holiday Season in SF, Oakland

News, Sports, and More

Local News

Sports

Weather

Community

Events

Classifieds

Real Estate

Jobs

Automotive

Health

Education

Arts & Culture

Travel

Food & Drink

Shopping

Services

Local Businesses

Local Government

Local History

Local Geography

Local Demographics

Local Economy

Local Culture

Local Lifestyle

Local Environment

Local Infrastructure

Local Transportation

Local Utilities

Local Healthcare

Local Education

Local Law Enforcement

Local Fire Department

Local Emergency Services

Local Public Works

Local Parks & Recreation

Local Libraries

Local Museums

Local Theaters

Local Restaurants

Local Retailers

Local Service Providers

Local Contractors

Local Vendors

Local Suppliers

Local Distributors

Local Wholesalers

Local Importers

Local Exporters

Local Manufacturers

Local Service Industries

Local Non-Profit Organizations

Local Religious Organizations

Local Political Organizations

Local Civic Organizations

Local Professional Organizations

Local Trade Associations

Local Industry Groups

Local Business Networks

Local Community Groups

Local Neighborhoods

Local Districts

Local Cities

Local Counties

Local States

Local Countries

Local Continents

Local Oceans

Local Atmosphere

Local Biosphere

Local Geosphere

Local Hydrosphere

Local Lithosphere

Local Pedosphere

Local Atmosphere

Local Biosphere

Local Geosphere

Local Hydrosphere

Local Lithosphere

Local Pedosphere

Craig Chandler Arrested on Child Sex Assault | NBC Bay Area

[http://www.nbcbayarea.com/news/local/Craig-Chandler-Arrested-on...](http://www.nbcbayarea.com/news/local/Craig-Chandler-Arrested-on-...)

HOME | NEWS | VIDEO | WEATHER | INVESTIGATIONS | SPORTS | ENTERTAINMENT | ON AIR  
 LOCAL U.S. & WORLD SPONSORED: SPORTS HEALTH TECH WEIRD WEATHER BLOGS: PRESS HERE

HOME &gt; NEWS &gt; LOCAL

## Craig Chandler Arrested on Child Sex Assault

Man taught second and third grade in San Jose for the past several years.

Wednesday, Jan 11, 2012 | Updated 12:16 PM PST

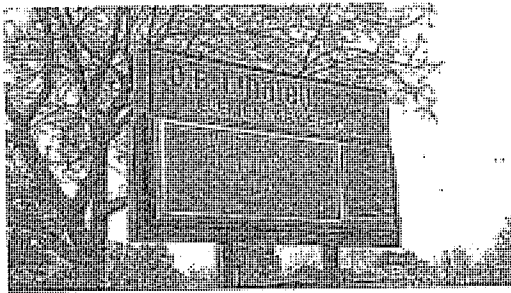
View Comments (6) | Email | Print

0

Tweet 3

Recommend 34

Send



NBC Bay Area

San Jose investigators confirmed they believe the abuse happened on the ground of this school and the alleged victim is a student.

advertisement

Police arrested a San Jose elementary school teacher on suspicion of aggravated sexual assault of a child, police said in a press release issued late Tuesday.

Craig Chandler, 35, was arrested on suspicion of sexual assault, which allegedly occurred between August 2011 and October 2011.

Chandler teaches a second and third grade combination class at O.B. Whaley Elementary School, located at 2655 Alvin Ave. in San Jose. Police said he has worked at the school for the past nine years.

Investigators said the victim in the case was a student at the school and the abuse happened on school grounds. They did not not give an age or gender, so it was not known if it was one of Chandler's students or another student at the elementary school.

808

Craig Chandler Arrested on Child Sex Assault | NBC Bay Area

[http://www.nbcbayarea.com/news/local/Craig-Chandler-Arrested-on...](http://www.nbcbayarea.com/news/local/Craig-Chandler-Arrested-on-...)

Parents and students arriving for school on Wednesday said they were shocked to hear the news. The district said it sent a note home Tuesday, but many



parents on campus Wednesday said they had not received it.

He is being held without bail.

Anyone with information regarding this case is urged to call the Police Department's sexual assaults unit at (408) 537-1395 or the anonymous tip line at (408) 947-STOP (7867).

*Bay City News contributed to this report.*

Get the latest headlines sent to your inbox!

EMAIL

SIGN UP

[Privacy Policy](#) | [More Newsletters](#)

Posted Jan 11, 2012

0

Tweet 3

Recommend 34

Send

Leave Comments

809

Craig Chandler Arrested on Child Sex Assault | NBC Bay Area

[http://www.nbcbayarea.com/news/local/Craig-Chandler-Arrested-on...](http://www.nbcbayarea.com/news/local/Craig-Chandler-Arrested-on-...)

Add a comment...

☒ Post to Facebook

Posting as Marty Bengford (Not you?)

[Comment](#)

Michael Breinholt

I happen to know some background on this that's not being reported and yes Caitlin, it is possible that he may be innocent. While your right that things like this happen alot, even once is too much, its also true that there are often false accusations and that many innocent people never fully shed the accusation to be able to move on with their lives. If he is in fact guilty, it will come out and you will have plenty of time to be disgusted with him afterwards. Until then, everyone deserves a little reservation about getting the linching rope.

Reply · 5 · Like · Follow Post · January 11 at 6:11pm



Leslie Blair Gallagher · Richard Stockton College of New Jersey

Wow, @Caitlan where did you read that this guy was being shielded? Talk about knee jerk reactions.

Reply · 3 · Like · Follow Post · January 11 at 4:17pm



Roberta Mann · Top Commenter

I worship the ground you walk on. LOL

Reply · 3 · Like · January 11 at 4:26pm



Nancy Bowen Redding · Fresno, California

People used to be innocent until proven guilty in this country, it is sad that it has turned into guilty until proven innocent. Reserve judgement until all the facts come out.

Reply · 1 · Like · Follow Post · January 12 at 8:37am



Deborah Albright · CCOC San Jose

Are our kids safe anymore OMG seemed like such a nice man too I have seen him daily at school he is my granddaughters freinds teacher.

Reply · Like · Follow Post · January 11 at 9:14am



Roberta Mann · Top Commenter

Don't jump to any conclusions, I've seen too many lives ruined by false accusations and we have no facts at all except that he's been accused ... of ... something...

Reply · 7 · Like · January 11 at 12:09pm



Caitlin Maher · Top Commenter

Roberta Mann Oh yeh?! men don't prey on women and children... it's all just a phony set up. 500,000 rapes per year in USA, 50,000 women and children disappear in USA each year probably into sex trade, nearly every suburb has a brothel, main cause of death of pregnant women in USA is murder by the father of the child. Domestic abuse of partner or child is most prevalent crime in USA. It's all just a phony set up.

Your knee jerk reaction to shield this guy is one of the oldest boys' club rule but it is nowadays really transparent and so just shut up.

Reply · 1 · Like · January 11 at 12:55pm



Spencer Miz Giuliodibari · Subscribe · Silver creek

I knew this guy. What a total A.

Reply · Like · Follow Post · January 14 at 10:03pm

Facebook social plugin

810

San Jose Elementary Teacher Accused Of Sexually Assaulting Child ... <http://sanfrancisco.cbslocal.com/2012/01/10/san-jose-elementary-tea...>

## San Jose Elementary Teacher Accused Of Sexually Assaulting Child

January 10, 2012 11:55 PM

Like **21** 3 25 View Comments



35-year-old Craig Chandler, a teacher at O.B. Whaley Elementary School in San Jose, is accused of aggravated sexual assault of a child. (San Jose Police Department)

### Filed Under

Local, News

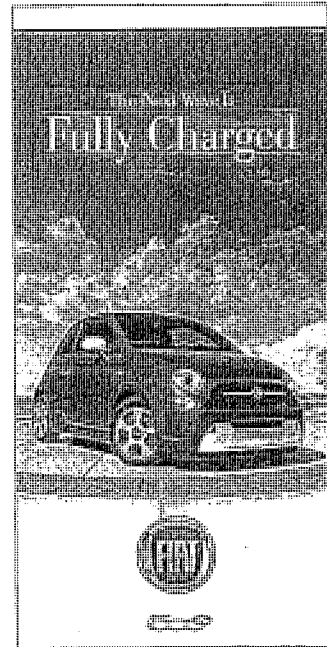
### Related Tags

Craig Chandler, Crime, San Jose, Sexual assault

SAN JOSE (CBS / AP) — Police arrested a San Jose elementary school teacher Tuesday on suspicion of aggravated sexual assault of a child, police said.

Craig Chandler, 35, was arrested on suspicion of sexual assault, which allegedly occurred between August 2011 and October 2011.

According to police, Chandler teaches a second and third grade combination class at O.B. Whaley Elementary School, located at 2655 Alvin Ave. Chandler taught at the school for the past nine years.



CBS San Francisco



47% off Honestech Film and Photo Package, Scan and Save

San Jose

The victim's name, age and gender were not released, nor did police say whether the child attended the school. Officials also did not disclose how they learned of the alleged abuse.

### KCBS' Mike Colgan Reports:

Dan Deguara, director of educational services at the Evergreen School District, said Chandler has been placed on leave.

"We're working closely with the San Jose Police Department [and] conducting our own investigation," he said regarding the allegations that came forward.

"Safety continues to be our number one priority," said Deguara.

Chandler is being held without bail.

Anyone with information regarding this case is urged to call the Police Department's sexual assaults unit at (408) 537-1395 or the anonymous tip line at (408) 947-STOP (7867)..

### MUST SEE PHOTO GALLERIES



Rock & Roll Hall of Fame...



Cheerleader Roundup - Week 14



NFL Recap - Week 14



Celebrities Who Died In Air...

811



3 comments

Jerome • 11 months ago

And even if after the process plays out he did do it, by no means does that mean you are unsafe with other teachers. One individual does not reflect an entire profession.

T • 11 months ago

He is only being accused as of right now, that does not mean that he did it.

Chante • 11 months ago

I cant beileve Mr.Chandler would do that im a student there and no i dont feel safe what if ther's other teachers like this?

O.B. Whaley Elementary School teacher arrested for child molestation... [http://abclocal.go.com/kgo/story?section=news/local/south\\_bay&id=...](http://abclocal.go.com/kgo/story?section=news/local/south_bay&id=...)

- [Live Doppler 7 HD Video](#)
- [Street-Level Weather](#)
- [MORE TOPICS +](#)

## • Video & Photos

- [Video on Demand](#)
- [Live Video](#)
- [Photo Galleries](#)
- [Most Popular Video](#)
- [Raw Video](#)
- [MORE TOPICS +](#)

## • ABC7 Extras

- [About ABC7 & News Team](#)
- [Prepare NorCal](#)
- [Bay Area Traffic](#)
- [Contests & Promotions](#)
- [Community](#)
- [Jobs](#)
- [TV Listings](#)
- [ABC Shows](#)
- [Live Well Network](#)

## • Marketplace

- [San Francisco Area Jobs](#)
- [Classifieds](#)
- [Get Coupons](#)

<input type="text" value="Enter search phrase"/>
<input type="button" value="SEARCH"/>

SEE IT ON TV? CHECK HERE

[South Bay News](#)



# San Jose teacher arrested for child molestation

Tuesday, January 10, 2012

Tags:

[san jose](#), [crime](#), [south bay news](#), [lisa amin gulezian](#)

813

O.B. Whaley Elementary School teacher arrested for child molestation... [http://abclocal.go.com/kgo/story?section=news/local/south\\_bay&id=...](http://abclocal.go.com/kgo/story?section=news/local/south_bay&id=...)

- [Comment Now](#)
- [Email](#)
- [Print](#)
- [Report a typo](#)
- [S](#)



[Lisa Amin Gulezian](#)

More: [Bio](#), [E-mail](#), [Facebook](#), [News Team](#)

SAN JOSE, Calif. (KGO) -- A San Jose teacher is facing child molestation charges. Craig Chandler, 35, is accused of aggravated sexual assault on a child.

Chandler worked at O.B. Whaley Elementary School for nine years. He most recently taught a second/third grade combo class.

San Jose police believe Chandler sexually assaulted a child on campus between August and October 2011. But they will not say if it happened during school hours or if the child was even a student at the school. They do worry more victims may be out there because Chandler was a teacher for so long.

#### Related Content

[link: CRIME MAPS: Track crime in your neighborhood](#)

Tuesday night, the president of the West Evergreen Neighborhood Association, Robert Sandoval, spoke with ABC7 about the suspect. As a community member, he says he knows every teacher at this school, including Chandler.

"I was appalled to hear what he had done. I mean shocking. I never would have thought that he would be a person to take advantage of a child. Never would have thought that," said Sandoval.

Evergreen School District superintendant Katherine Gomez released a statement saying, "The District is cooperating fully with the San Jose Police Department and we want to assure the community that the safety and well-being of our children is our primary concern."

Chandler is being held without bail. He will make his first appearance in a San Jose courtroom Friday.

Detectives are urging any more victims to come forward and tell San Jose police. People with information can call the police department's sexual assaults unit at (408) 537-1395 or the anonymous tip line at (408) 947-STOP (7867).

(Copyright ©2012 KGO-TV/DT. All Rights Reserved.)

[Get more South Bay News »](#)

Tags:

[san jose](#), [crime](#), [south bay news](#), [lisa amin gulezian](#)

814



Craig Richard Chandler O.B. Whaley Elementary School teacher arrested for alleged Sexual Assault of a Child


3/8/12 11:50 AM

101.2012.31111 Pay Later!

search

Search Fugitive.com ...



- [Home](#)
- [Television & Newspaper](#)
- [Give a Tip](#)
- [Advertise with Us](#)
  - [Fugitive Watch Sponsors](#)
- [About Us](#)
  - [Mission Statement](#)
  - [Terms of Use](#)
- [Press Releases](#)
- [Contact Us](#)
  - [Make a Donation](#)
- [FUGITIVE WATCH BUSINESS DIRECTORY](#)
- [California Fugitive Recovery Academy-Learn How to Become a Fugitive Recovery Agent](#)
- [RSS](#) 

## \* Craig Chandler, O.B. Whaley Elementary School teacher arrested for alleged Sexual Assault of a Child

Published by [Staff Writer](#) on January 10, 2012



[Click Here to join The Fugitive Watch fan page and get critical alerts](#)

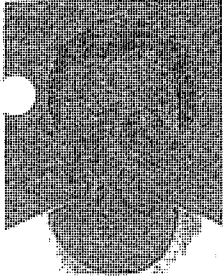
twitter

[Follow Fugitive Watch for updated crime stories and wanted criminals](#)

815

Craig Richard Chandler O.B. Whaley Elementary School teacher arrested for alleged Sexual Assault of a Child

3/8/12 11:50 AM



**UPDATE Click Here Craig Chandler, a San Jose Elementary Teacher, Will Be Arraigned on Several Counts of Sexual Assault**

On January 10, 2012, San Jose police investigators arrested Craig Chandler, 35, of San Jose on suspicion of aggravated sexual assault of a child, a felony. Chandler is a teacher at O.B. Whaley Elementary School, 2655 Alvin Avenue, in San Jose, and has been employed at O.B. Whaley as a teacher the past 9 years. Chandler currently taught a 2nd/3rd grade combination class.

Chandler was booked into the Santa Clara County jail on suspicion of violating section 269(a) of the California Penal Code - Aggravated Sexual Assault of a Child - where he is being held without bail. Chandler is suspected of committing the sexual assault between August 2011 and October 2011.

Anyone having been victimized by the suspect, or anyone with information about this case or about the suspect, is urged to contact Detective Sean Pierce of the San Jose Police Department, Sexual Assaults Unit, at (408) 537-1395.

**Auto Nav 2000**

Click on Ad Below to go to Auto Nav 2000

NOTICE: All persons depicted are presumed to be innocent unless proven to be guilty in a court of law. The Fugitive.com and Fugitive Watch.com notations appearing on this site are TRADEMARKS and NOT an expression of fact or opinion.

NOTICIA: Todas las personas representadas son presuntas de ser inocentes a menos que resulten culpables en un tribunal de justicia. Fugitive.com y Fugitive Watch.com anotaciones que aparecen en este sitio son MARCAS REGISTRADAS y NO una expresión de hecho o de opinión.



Click Here to Watch More Fugitive Watch Podcasts

816

omment Advisement We welcome your thoughts, but for the sake of all readers, please refrain from the use of obscenities, personal attacks or racial slurs. All comments are subject to our terms of service and may be removed. Repeat offenders may lose commenting privileges.

Craig Richard Chandler O.B. Whaley Elementary School teacher arrested for alleged Sexual Assault of a Child

3/8/12 11:50 AM

Install the ratings plugin

Popularity:

Reviews

Comments:

None

Toolbar:

Tagged with: [2655 Alvin Avenue](#), [Craig Chandler](#), [Craig richard Chandler](#), [O.B. Whaley Elementary School](#), [san jose child molest](#), [san jose most wanted](#), [san jose sex offender](#)

Tag Cloud

Business plan template Child Support  
Prior year tax returns

Name (required)

Email Address (required)

Website

XHTML: You can use these tags: `<a href="" title="">` `<abbr title="">` `<acronym title="">` `<del datetime="">` `<em>` `<del datetime="">` `<q cite="">` `<strike>` `<strong>`

Submit Comment

Criminal Record

Public Records Search

Free Public Records

Public Criminal Records

Criminal Background Checks

Online Public Records

ads by media.net

## RELATED NEWS

- \* [Danny Klontz primary suspect in San Jose murder of Manuel Andrade](#)
- \* [Darren Yules arrested for alleged stabbing in San Jose on Sun Glory Lane](#)
- \* [Gunderson High School in San Jose locked down while alleged bank robbers taken into custody](#)
- \* [Raquel Menchaca reported victim of alleged Kidnapping by Leonel Vargas in San Jose from Oak Grove High School](#)
- \* [Craig Chandler, a San Jose Elementary Teacher, Will Be Arraigned on Several Counts of Sexual Assault](#)

817

Craig Richard Chandler O.B. Whaley Elementary School teacher arrested for alleged Sexual Assault of a Child

3/8/12 11:50 AM

- \* San Jose police officers were injured when a carjacking suspect rammed four patrol cars near Alum Rock and McCreery
- \* Steve Ruiz San Jose Fugitive wanted in shooting murder of Steve Tausan spotted in San Jose December 2011
- \* Paul Ray Castillo murder suspect from San Jose arrested in West Sacramento
- \* San Jose gang shooting Jeanne Avenue 3 injured
- \* Fugitive Watch Podcast Locate Wanted Fugitives with Marc Hinch, Scott Castruita and Steve Ferdin
- \* Silvestre Felix Burgara arrested and released for 2005 San Jose murder of Octavio Medina
- \* San Jose Kidnapping and Robbery on Story Road Identification Needed
- \* San Jose stabbing three injured near San Jose State University
- \* San Jose stabbing on Crucero Drive May 25, 2011 non life-threatening
- \* Mario Jesus Hernandez wanted for alleged San Jose murder near South Capitol Avenue
- \* San Jose fatal shooting on Mount Prieta Drive two more murders 2011
- \* Demetrius Eugene Campbell identified as San Jose murder on Flintcrest Drive
- \* San Jose homicide Fatal shooting in a home on Capitol Avenue
- \* Melanie Ashley Dunn identified as fatal stabbing victim in San Jose David Shackelford arrested in connection
- \* San Jose Fatal Shooting at Story Road and East Capitol Expressway
- \* Fugitive Watch Podcast includes crime videos and wanted fugitives
- \* San Jose alleged gang killing on Poco Way San Jose's sixth homicide this year
- \* Jose Everardo Luna and Steven Anthony Davis arrested for alleged Bank of America at 565 W. Capitol Expressway in San Jose
- \* Chase Bank robbery at 5530 Monterey Road, San Jose
- \* John Bruce Lynch a Milpitas resident, arrested for alleged San Jose Bank Of America robbery on N. First Street
- \* ARRESTED-John Zeno Moore Wanted for Child Sexual Abuse at the 2700 Block of Kesey Lane in San Jose
- \* Nawab Mirza Baig Wanted for Alleged Child Molest in San Jose California
- \* Brian Bui Adrong wanted for alleged stabbing and kidnapping on Lucena Drive in San Jose
- \* Robber wanted for two ATM robberies at Chase Bank, 1705 E. Capitol Expressway in San Jose
- \* Robbery San Jose marijuana dispensary on Monterey Road
- \* San Jose women shot to death on Morris Court
- \* San Francisco sexual assault and kidnapping at the corner of Van Ness Avenue suspects possibly from San Jose
- \* San Jose robbery at Check 'n Go store at 461 Blossom Hill Road
- \* Phillip Dominguez and Racquel Martinez arrested in connection to San Jose child kidnapping and sexual assault
- \* San Jose Police pursuit in the area of 3000 block of Rockport Avenue
- \* Russell Edward Garcia A San Jose man was arrested last week for allegedly robbing several people
- \* Ermeo Antonio Avalos arrested for bank robbery Wells Fargo in the 100 block of S. Market St.
- \* Lori Beth Anderson A Female Fugitive Recognized on Fugitive Watch Web Site Surrenders to San Jose Police at the Hawaiian Mobile Home Park
- \* Fidel Duran Morales arrested after San Jose indecent exposure investigation near the Edenvale and Sylvandale
- \* Jose Torres charged with murder in connection with the April 21 killing of Jose Vega Calderon in San Jose
- \* Wanted Fugitive as a Serial Battery Suspect in the area of Saratoga Creek Trail, between Bollinger and Doyle roads
- \* Police Need to Identify Man that Attacked and Robbed Victim at John Mize Park in San Jose
- \* Thomas Anderson Pleads Guilty to Child Molest in San Jose
- \* Murder at Willard Avenue and San Carlos Street in San Jose
- \* Wanted fugitives on Fugitive Watch podcast 4/20/2010
- \* Fugitive Watch Podcast with Marc Hinch And Scott Castruita 4/5/2010
- \* San Jose State University sexual battery suspect sketch
- \* Fugitive Watch Podcast for 3/22/10 is Now Available-Watch Here
- \* District Attorney Dolores Carr Will Not File Charges Against San Jose Police Officers
- \* Dat Nguyen Identified As Fatal Stabbing Victim At Restaurant On Berryessa Road
- \* San Jose Police Investigate Fatal Stabbing on Berryessa Road
- \* Teenage Boy Stabbed and Killed on Kollmar Drive in East San Jose
- \* 63 Year Old Woman is Attacked in Her Home on Branham Lane in San Jose
- \* San Jose Home Invasion Robbery On Morrill Avenue By two Masked men
- \* San Jose Man Fatally Shot On Chopin Av.
- \* San Jose Police Need Help to Identify Alleged Robber of La Victoria Restaurant
- \* San Jose Police Arrest Jennifer Bautista for the Alleged Murder of Norma Leticia Martinez
- \* San Jose Police Need to Identify Suspects in Home Invasion Robbery on Foothill Drive
- \* Teen Stabbed in Area of McKee and Rancho Verde Drive in San Jose
- \* San Jose Fatal Shooting Second And Santa Clara
- \* Richard Werner Schweich In Custody For Child Sexual Exploitation Crimes Looking For More Victims
- \* Eduardo Cristobal And 3 Juveniles To Be Charged As Adults For San Jose Shooting On Halloween
- \* Eduardo Cristobal Arrested For San Jose Shooting Of 12-Year-Old Halloween Night Oct 31 On Story Road
- \* Kim Luu Identified As Victim From San Jose Fatal Shooting Oct 31 At Southwest Expressway at Leigh Av
- \* San Jose Halloween Shooting Of 12-Year-Old On Story Road 3 Suspects Arrested
- \* Just Released-Show #180 PART #2-Watch Here
- \* Joe Trujague Identified As Man Killed In San Jose In The 100 Block Of South King Road On Sept 26th
- \* San Jose Shooting Near William And J 11th Street Aug 28th 0315 Hrs

818

Craig Richard Chandler O.B. Whaley Elementary School Teacher arrested for alleged Sexual Assault of a Child

3/8/12 11:50 AM

- \* San Jose Police Release Sketch Of Suspect From May 2 Stabbing Outside Quick Stop Market On Stewart Av.
- \* San Jose Suspects John Aguilar, 22, Chrisergs Endonela, 18, Jonryan Somera, 18 And Roger Seguritan, 17, Charged In Connection To Shooting At Happy Hollow
- \* San Jose Police Release Name Of Victim, Nam Hoang Mai Who Was Fatally Shot Near Capitol Av.
- \* Man Wounded has Died from Shooting on North Capitol Avenue San Jose
- \* San Jose Police Investigating Fatal Stabbing Of Kenneth Loyola, 52, In Homeless Encampment
- \* Standoff Continues In San Jose Near The Chateau La Salle Mobile Home Park With Gunman
- \* Man Hospitalized After Shooting in Jack in the Box Parking Lot
- \* San Jose Man Armando Lorenzo Rios Was Arrested For Murder Of Paul Leyva
- \* The San Jose Police Department Asking for Public's Help in Identifying a Men West Credit Union Robbery Suspect
- \* San Jose Police Report Arrest of Eduardo Larios, Jose Portillo-Garcia and Edwin Portillo-Garcia for Alleged Sexual Assault
- \* San Jose Man Edward Dees, 60, Will Stand Trial For The 1975 Rape And Murder Of Sandra Howard
- \* San Jose Police Identify Andres Garza As The 20-Year-Old Killed, 5200 Block Of Dent Avenue
- \* San Jose Shooting 1200 Block Of McLaughlin Avenue Possible Gang Related
- Jury Finds Cop Killer Deshawn Campbell Guilty of Murdering San Jose Police Officer Jeffrey Fontana
- San Jose Jury Deliberating on Deshawn Campbell Trial for Killing Officer Jeffrey Fontana
- \*25-year old San Jose Man Shot at party on McKee Road in Grave Condition
- \*San Jose Man Assaulted and Left with Life Threatening Injuries Near McKee and White Roads
- \* San Jose Police Officers Matthew Blackerby and Brian Jeffrey, Fatally Shoot Daniel Pham After He Stabbed A family Member Then Charged Them With A knife
- \* San Jose Police Identify Juan Mendoza, 22, As The Victim Shot And Killed In The 3300 block of Rocky Mountain Drive
- \* San Jose Police Fatally Shoot 27-Year-Old San Jose Resident Daniel Pham When He Charges Them With A Knife In The 900 Block Of Branbury Way
- \* San Jose Police Arrest Alejandro Mendoza, Kristina Marie Contreras, Jose Nunez Ortiz, Javier Pimentel Olalde in Connection with the May 23, 2008 killing of Vahid Hosseini
- \* San Jose Police Announce Murder Arrest Of Raymond John Garcia, 24, Ernesto Guadalupe Ruiz Esparza, 19, Ralph Anthony Garcia, 21, For April 17th Stabbing Of Enrique Flores
- \* San Jose's 10th Homicide For 2009 Occurred 3300 block of Rocky Mountain Drive
- \* Alejandro Mendoza, 27, Charged with Murdering Willow Market Owner 47-Year-Old Vahid Hosseini
- \* San Jose Man Alejandro Mendoza Arrested On Suspicion Of Killing Vahid Hosseini On May 23, 2008, Bank of the West Branch at 1010 First St
- Update-San Jose Police Arrest Alejandro Mendoza for Alleged Murder of Vahid Hosseini
- \* 49-Year-Old Gilroy Man Peter Klein 'No Face Bandit' Was Indicted By A Federal Grand Jury, 11 counts Armed Bank Robbery
- \* San Jose Police Identify Fatal Stabbing Victim Found In A Car After It Crashed, As Michael James Hazard, 22
- \*San Jose Police Identify Fatal Stabbing Victim From Almaden Expressway and Foxworthy Avenue As 35-Year-Old Enrique Flores
- \* San Jose 7-11 Store on Albany Drive Robbed by an Unknown Suspect at Gun Point
- \*San Jose Women Damariz Michi Charged With Attempted Murder With A Minivan
- \*San Jose Police Officer Jeffrey Fontana's Murderer DeShawn Campbell Says He Didn't Turn Himself In Fearing Retaliation
- \*San Jose Fatal Shooting At 700 block of Cotton Tail Avenue Was Victim Eduardo Marquez, 19,
- \*San Jose Fatal Shooting At 700 block of Cotton Tail Avenue
- Assault Unknown Suspect Stabbed Victim 1300 block of Crucero Drive
- \*San Jose Gun Exchange At 2902 Almaden Expressway, 100 Guns Stolen
- \*Former San Jose Fugitive Luong Hue Tieu Sentenced In Chip Warehouse Robbery
- \*San Jose, Mark James Porter Accused Of Kidnapping 8-Year-Old Girl Appears In Court
- \*San Jose High School P.E. Teacher Accused Of Molesting 17-Year-Old Student
- HIGH SCHOOL CUSTODIAN SUSPECTED OF MOLESTING YOUNG CHILD
- Robbery University Way And Garden Drive, San Jose
- Who Would Tie Up His Grandmother? – Robert Bolduc
- Fraud – Santa Clara County Asking For Help With ID
- Wanted On 4 Armed Robberies in San Jose
- Robbery, Santa Clara Snell Light Rail Station
- \*Jan 22 San Jose Man Charged With Murder For Running Down Neighbor
- \*\*\*ARRESTED\*\*\*Manslaughter-San Jose, Christina Robledo
- Parole Violation – Steve Badue
- Assault With A Deadly Weapon San Jose California, Ardan Mendoza Farsheedi
- Robbery at San Jose Sav-Mart
- ARRESTED-Burglary/Theft San Jose California, Precious Elyse McCree Commercial Burglaries
- ARRESTED-Fraud San Jose California, Ariel Elizabeth Kittles, Victoria's Secret Oakridge Mall
- Fraud San Jose/San Mateo California, Stolen Purse From Atherton
- Child Molest Contra Costa, Elidio Bautista Gonzales 8 Counts of Child Molest
- Robbery San Jose California, Cesar's Flowers N. 13th St.
- Robbery San Jose California, Home Invasion on El Cajon Drive
- Robbery San Jose California, Craigslist Victim, Ipod Nano
- Child Molest San Jose California, Pedro Rivera Delrosarios

819

- Page 6 of 7

Craig Richard Chandler O.B. Whaley Elementary School teacher arrested for alleged Sexual Assault of a Child

3/8/12 11:50 AM

821

<http://www.fugitive.com/2012/01/10/craig-chandler-o-b-whaley-elementary-school-teacher-arrested-for-alleged-sexual-assault-of-a-child/>

Page 7 of 7

Search Results

3/8/12 11:53 AM

Part of the Bay Area News Group

MOBILE : MOBILE : NEWS

Jobs Cars Homes Classifieds Shop

Walnut Creek, CA Now:60°F High:68°F Low:37°F city or zip

craig richard chandler

News

Look through our news archives.

web search powered by YAHOO! SEARCH

<input type="checkbox"/>	9 matches Entire Site	9 matches News	0 matches Classifieds	0 matches Autos	Web powered by YAHOO! SEARCH
--------------------------	-----------------------	----------------	-----------------------	-----------------	------------------------------

**REFINEMENTS**

**Category (13)**  
 News (13)  
 Local (6)  
 Breaking (5)  
 Crime (4)  
 High school sports (4)  
 more >>

**Location (12)**  
 San Jose (9)  
 Santa Clara (5)  
 California (4)  
 Noguchi (4)  
 Alden (2)  
 more >>

**People (9)**  
 Craig Richard Chandler (9)  
 Sean Pierce (6)  
 Sharon Noguchi (4)  
 Tracy Seipel (2)  
 Tracey Kaplan (2)  
 more >>

**Publication Date (13)**  
 Before 2012-01-12 (5)  
 2012-01-12 - 2012-01-23 (3)  
 2012-01-23 - 2012-02-12 (2)  
 2012-02-12 or after (3)

**RELATED SEARCHES**  
 sharon noguchi  
 craig richard chandler  
 lisa fernandez  
 tracey kaplan  
 mark gomez  
 more >>

Didn't find what you want?  
 Search Our Archives

**YOUR SEARCH:** craig richard chandler  
 9 matches

**Search Tips**

Three more girls say San Jose teacher molested them (56%)  
 03/02/2012 - Craig Richard Chandler now faces five felony counts of lewd and lascivious conduct in connection with five alleged female victims at O.B. Whaley Elementary School. [similar results](#)

By Tracey Kaplan tkaplan@mercurynews.com

San Jose teacher charged with sexually assaulting two 7-year-old students (56%)  
 01/13/2012 - A San Jose teacher was arraigned Friday on charges he sexually assaulted two 7-year-old girls at O.B. Whaley Elementary School, accusations that his attorney plans to "vigorously defend." Craig [similar results](#)

By Lisa Fernandez and Mark Gomez Mercury News

Parents shocked at arrest of San Jose teacher on sexual assault charges (56%)  
 01/12/2012 - One day after a popular teacher was arrested on suspicion of sexually assaulting a child, parents, educators and students at O.B. Whaley School in San Jose reacted with shock and disbelief. Craig [similar results](#)

By Sharon Noguchi snoguchi@mercurynews.com

San Jose Police arrest elementary school teacher for alleged assault on child (56%)  
 01/11/2012 - San Jose police on Tuesday arrested a 35-year-old male elementary schoolteacher on suspicion of sexually assaulting a child late last year. Craig Richard Chandler, of San Jose, has been a teacher at [similar results](#)

By Tracy Seipel tseipel@mercurynews.com

Calif. school teacher held on suspicion of assault (56%)  
 01/10/2012 - SAN JOSE, Calif.—A 35-year-old teacher at a San Jose elementary school has been arrested on suspicion of sexually assaulting a child. The San Jose Mercury News reports ( [http://bit.ly/AFmtkg](#) ) that [similar results](#)

The Associated Press

Wednesday's High School sports scores (51%)  
 02/08/2012 - Boys basketball Blossom Valley Mount Hamilton Division Piedmont Hills 65, Westmont 38 Westmont 8\*16\* 4\*10-38 Piedmont Hills 10\*16\*11\*19-55 Westmont (10-13, 5-8) — Lunell 1-0-2, M. Heam [similar results](#)

Compiled by the Mercury News

*As longer available on website*

Results Pages: 1 | 2 | 3

craig richard chandler

News

Questions or comments about our search? Send us your feedback

822



116 SUPERIOR COURT  
190 W. HEDDING ST.  
SAN JOSE, CA 95110  
CRAIG RICHARD CHANDLER  
SAN PEDRO ST  
SAN JOSE, CA 95110  
HON. JUDGE J. PICHON  
M. DAVIS  
MADDEN, BRIAN (G)  
F(001)PC288(A)  
F(003)PC288(A)  
F(005)PC288(A)

CASE NO. 12001535  
CEN 8:30 AM DEPT. 24  
DATE 05/13/2013 10/25/1976 CAB3721090 CDY BK:Y  
CLERK C. GUERRA EBK966 M  
HEARING MASTER TRIAL CALENDAR  
DV: AGENCY SJ-04313- -UNKNOWN  
CHILD: STATUS I-SET -NBA  
D.A. R. MENDOZA APO  
F(002)PC288(A)  
F(004)PC288(A)  
VIOLATION DATE 09/01/2010

5133 941 37

**NEXT APPEARANCE**

☐ Defendant Present ☐ Not Present ☒ Atty Present ☐ AD / PD / IDO / Special App.

☐ Arr'd ☐ Adv ☐ Adv Wav ☐ Amend Comp/Info ☐ Arr ☐ Plea ☐ IDC ☐ PFC ☐ Prob / Sent ☐ Interpreter ☐ Sworn

☐ PC977 ☐ Filed ☐ On File ☐ Repr: Adv / Wav ☐ Bail / OR / SORP ☐ Red DP Rpt ☐ FAF/ERC ☐ Bail Apply ☐ Balance Exonerated

☐ NG ☐ Entered by CRT ☐ NGBR / Adv ☐ PSet ☐ Prelim ☐ Readiness ☐ S / B MTC ☐ Bail Exonerated ☐ Forfeited ☐ Bond #

☐ Denies Priors/ Allegations/ Enhancements/Refusal ☐ Further ☐ Jury ☐ CT ☐ Pto / Del Way Jury ☐ Reassumption Filed ☐ Forfeiture Set Aside ☐ Bail Rein

☐ TW ☐ TNW ☐ TW / WD ☐ TW Sentence ☐ Ref'd ☐ Costs Within 30 Days to Court

☐ Ref / Appt PD / ADO / IDO ☐ Con Dec ☐ Adm A / F ☐ APO / DADS/ Prop 36 ☐ P36 Re-Asst ☐ SORP / OR ☐ Revoked ☐ Reinstated ☐ May Post & Forfeit

☐ Hrg on Motion ☐ Summ'd to Rpt ☐ Hrg ☐ Crim Proc Susp ☐ Rein ☐ Status Hrg ☐ BW Ordered ☐ Stayed ☐ To Issue

☐ Granted ☐ Denied ☐ Submitted ☐ Off Cal ☐ Subm on Report ☐ Found ☐ No Cite Release/SCJ ☐ No Request ☐ Cash Only

☐ Stip to Comm ☐ Dr's Appointed ☐ Max Term ☐ Committed ☐ BW Set Aside ☐ Recalled ☐ Filed ☐ Remain Out ☐ NWF

☐ Prelim Wav ☐ Continu'd General Jurisdiction ☐ MDA / COM Amended to ☐ Pur VC21303.5 ☐ DA Stmt Filed ☐ Includes VOP ☐ Add'l Cal ☐ Vocate pending date

☐ Amended to ☐ (M) VC12500(a) / VC23103(a) ☐ PC17 after 1 Yr Prob ☐ Includes VOP ☐ Subm time of Sent ☐ Harv Sup

☐ PLEA Conditions: ☐ None ☐ No State Prison ☐ Jail / Prison Term ☐ Dismissal/ Striking ☐ Adv Max Pen ☐ Parole/ Prob / Imprg / Appeal ☐ Reg HS11590/PC290/PC457.1/PC186.30 ☐ FFS ☐ Fines/Fees ☐ PC29800/29805/30305/666/VC14607.8

☐ Wav Right to ☐ Counsel ☐ Court / Jury Trial ☐ Subpoena / Confront / Examine Witnesses ☐ Self-incrimination ☐ Written Waiver filed ☐ Plea / Absentia filed

☐ COP ☐ GUILTY ☐ NOLO CONTENDERE to charges & admits enhancements / allegations / priors ☐ PC17 ☐ Arr'd ☐ Factual Basis found ☐ Findings stated

☐ Prop. Granted / Ungranted / Refused / Term ☐ DEJ Eligibility Filed ☐ DEJ Granted / Rein / Term ☐ Fee \$ ☐ Guilty / Plea / Rendered

☐ Waives Referral ☐ APO Full Rpt ☐ CR110 issued ☐ Fines/Fees Pay to: ☐ DOR ☐ Traffic ☐ Court ☐ Today ☐ Audit #

☐ Sent Suspended ☐ PROBATION DENIED ☐ COUNT ☐ PA \$ ☐ PA \$ ☐ PA \$ ☐ Purs HS11350d

☐ PROBATION ☐ Execution ☐ Imposition of sentence suspended for probation period ☐ COUNT ☐ PA \$ ☐ PA \$ ☐ PA \$ ☐ PC290/3

☐ COURT ☐ FORM ☐ PROBATION GRANTED for ☐ Days / Mos / Yrs ☐ AIDS / CPP ☐ PA \$ ☐ SORP

☐ Report to APO within ☐ Days ☐ Terminated ☐ Upon Release ☐ DPF ☐ PA \$ ☐ PA \$ ☐ ENAT \$

☐ Perform ☐ Hrs/Volunteer Work as directed PO / SAP ☐ In lieu of fine/Jail ☐ LAB ☐ PA \$ ☐ PA \$ ☐ PA \$

☐ Not drive w/o valid DL & Ins ☐ Adv VC23600 ☐ HTO ☐ Re-refer ☐ DRF / RF ☐ Add'l RF \$ ☐ Susp'd PC1202.44/45

☐ MOP ☐ FOP ☐ 12 hrs ☐ 3 mos ☐ 9 mos ☐ Enroll within ☐ days ☐ AEF ☐ Original Fine \$

☐ DL Susp/Restr'd/Rvkd for ☐ ID Not Ordered/ Rmvd Term ☐ Yrs ☐ SECA/COPA ☐ CTS PC2900.5 \$

☐ No contact with victim or family / co-defts unless appr by APO ☐ PC1202.05 ☐ ICMF ☐ TOTAL DUE \$

☐ DVPO issued / mod / term'd Exp ☐ Victim Present ☐ ICIN ☐ Payments Granted / Modified

☐ No Contact ☐ Peaceful Contact ☐ DSA thru APO / DOR / CRT ☐ Filed ☐ AR ☐ \$ / Mo beginning

☐ Not own/possess deadly weapons ☐ Destroy/return weapon ☐ SHELTER ☐ FINE STAYED ☐ 15/day ☐ May Pay Out

☐ Stay away from ☐ Submit Search/Testing ☐ Educ/Voc Trng/Empl ☐ No alcohol / drugs or where sold ☐ DV ☐ Committed ☐ Consec/Conc to

☐ Substance Abuse, Psych, Thert, Anger Mgmt, DV, Parenting cnsl / prgm ☐ ASFS/CRF \$ ☐ Fine / Fees ☐ Deemed Satisfied ☐ Commuted

☐ PC296 (DNA) ☐ PC1202.1 HIV Test / Education ☐ PINVEST ☐ P/SUR \$ ☐ P/SUR \$ ☐ Mo. ☐ Waived

☐ VOP: ☐ Wav ☐ Admits/Denies Viol ☐ Court Finds VOP / No VOP ☐ CJAF \$129.75/\$259.50 ☐ Add'l Fees Waived

☐ Prob Rein / Mod / Term'd / Revoked / Remains Revoked / Ext to ☐ SECA, ICMF, ICIN, CJAF, PINVEST, PSUR, FEES, NOT COND. OF PROB

☐ Original Terms & Conditions Except as Amended herein ☐ Restit ☐ Gen \$ ☐ to

☐ Co-terminous with ☐ No Further Penalties / Reviews ☐ As determined by APO/Court ☐ Referred to VWAC ☐ Collect Civilly

Other:

**JAIL/PRISON** ☐ See Attachment ☐ CDCR/Parole collect restit from Def's earnings ☐ Blended Sentence ☐ County Jail

Count F/M ☐ Violation ☐ Prison Term / Yrs ☐ Enhancement / Priors / Yrs / Std / Strkn ☐ HRS / DAYS / MOS

Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Total

CTS = ☐ ACT ☐ 4019 ☐ 1/2 ☐ 1/4 ☐ PC2933.1 ☐ Total ☐ Total term ☐ CDCR / PC1170h

☐ Straight time ☐ In Camp ☐ WWP ☐ PC1209 Fees ☐ Waived ☐ Court Rec ☐ All / Except ☐ EMP/PSP/ERP/DRF/Co Parole/NP

☐ Sent Deemed Srv'd ☐ Rpt to Parole/Prob w/in ☐ Adv/ORD ☐ Yrs/Mos Parole/MS/PRCS/Appeal ☐ Consec ☐ Conc to ☐ 823

☐ Bal CJ Susp ☐ All but ☐ Hrs/Days/Mos ☐ On Cond Complete Residential Treatment Prgm ☐ Serve Consec MO/TUWE/TH/FR/SA/SU

☐ Pre-process ☐ AM/PM ☐ Stay / Surrender / Transport to ☐ AM/PM or Sooner

☐ REMAIND-BAIL \$ ☐ REMAIN AS SET ☐ NO BAIL ☐ COMMITTED ☐ RELEASED ☐ OR ☐ SORP ☐ JAC PHONE ASSMT ☐ P36

☐ AS COND OF SORP ☐ BAIL INCREASED / REDUCED ☐ TO PRGM AS REC BY JAC DOC TO ARRANGE TRANSPORT UPON AVAIL BED

SUPERIOR COURT  
190 W HEDDING STREET  
SAN JOSE CA 95110  
PEOPLE VS. CRAIG RICHARD CHANDLER  
K.A. 1361 N SAN PEDRO  
SAN JOSE CA 95110  
UDGE HON. ARTHUR BOCA NEGRA  
REPORTER J. MIXCO  
DEF. ATTY. MADDEN, BRIAN (C)  
CHARGES F (001) PC288(A)  
F (003) PC288(A)  
F (005) PC288(A)

CASE NO. C1223754  
CEN 12001535  
DATE 05/13/2013 9:00AM DEPT. 37  
10/25/1976 CDY BK:  
CLERK STAFFORD EBK966 M  
HEARING DISPOSITION  
AGENCY SJ - 04313 - PIERCE  
STATUS I - SET - NBA TW  
APO

D.A. A. File

F (002) PC288(A)

F (004) PC288(A)

VIOLATION DATE:

09/01/2010

## NEXT APPEARANCE

TRIAL MOTIONS 05-17-13 9am D37

☒ Defendant Present ☐ NOT Present ☒ Atty Present ☐ AD / PD / IDO / Special App

☐ Arr'd ☐ Adv ☐ Arr Wav ☐ Amend Comp/Info ☐ Arr ☐ Plea ☐ IDC ☐ PTC ☐ Prob / Sent ☐ Interpreter ☐ Sworn

☐ PC977 ☐ Filed ☐ On File ☐ Repr. Adv / Wav ☐ Bail / OR / SORP ☐ Rect Dr Rpt ☐ FAF / ERC ☐ Bail Apply ☐ Balance Exonerated

☐ NG ☐ Entered by CRT ☐ NGBRI / Adv ☐ PSet ☐ Prelim ☐ Readiness ☐ S / B MTC ☐ Bail Exonerated ☐ Forfeited ☐ Bond #

☐ Denies Priors / Allegations / Enhancements / Refusal ☐ Further ☐ Jury ☐ CT ☐ Pgo / Def Wav Jury ☐ Reassumption Filed ☐ Forfeiture Set Aside ☐ Bail Rein

☐ TW ☐ TNW ☐ TW / WD ☐ TW Sentence ☐ Refd ☐ Costs Within 30 Days to Court

☐ Ref / Appt PD / ADO / IDO ☐ Con Dec ☐ Adm A / F ☐ APO / DADS / Prop 36 ☐ P36 Re-Assmt ☐ SORP / OR ☐ Revoked ☐ Reinstated ☐ May Post & Forfeit

☐ Imm Relieved ☐ 3A Appt'd ☐ Crim Proc Susp ☐ Rein ☐ Status Frg ☐ BW Ordered ☐ Stayed ☐ To Issue

☐ Hrg on Motion ☐ Subm on Report ☐ Found ☐ MDA / COM Amended to ☐ No Cite Release / SCIT ☐ No Request ☐ Cash Only

☐ Granted ☐ Denied ☐ Submitted ☐ Off Cal ☐ Subm on Report ☐ Found ☐ BW Set Aside ☐ Recalled ☐ Filed ☐ Remain Out ☐ NWF

☐ Stip to Comm ☐ Appointed ☐ Max Term ☐ Committed ☐ Proof of Service of Trial ☐ Trial ☐ Trial ☐ Trial

☐ Prelim Wav ☐ Certified to General Jurisdiction ☐ MDA / COM Amended to ☐ Includes VOP ☐ Add to Cal ☐ Vacate pending date

☐ Amended to ☐ (M) VC12500(a) / VC23103(a) ☐ Pur VC23103.5 ☐ DA Stmt Filed ☐ Includes VOP ☐ Submit time of Sent ☐ Harvey Sup

PLEA Conditions: ☐ None ☐ No State Prison ☐ PC17 after TW / Prob ☐ Includes VOP ☐ Add to Cal ☐ Vacate pending date

☐ Jail / Prison Term of ☐ Dismissal / Striking ☐ Adv Max Pen ☐ Prob / Immig / Appeal ☐ Reg HS11590 / RC290 / PC457 / PC186.30 ☐ FSE ☐ Fines / Fees ☐ PC29800 / 29805 / 30305 / 666 / VC14607.8

☐ Wav Right to ☐ Counsel ☐ Court / Jury Trial ☐ Subpoena ☐ Confront / Examine Witnesses ☐ Self-incrimination ☐ Written Waiver filed ☐ Plea / Absentia filed

☐ COP ☐ Guilty ☐ NO / CONTENDERE to charges & admits enhancements / allegations / priors ☐ PC17 ☐ Ar buckle ☐ Factual Basis found ☐ Findings stated

☐ Prop 36 Granted / Unamenable / Refused / Term ☐ DEJ Eligibility Filed ☐ DEJ Granted / Rein / Term Fee ☐ Guilty Plea Rendered

☐ Waives Referral to APO / Full Rpt ☐ CR110 issued ☐ Fines / Fees Pay to: ☐ DOR ☐ Traffic ☐ Court ☐ Today ☐ Audit #

☐ Sent Suspended ☐ PROBATION DENIED ☐ COUNT ☐ PA \$ ☐ Purs HS113500

PROBATION ☐ Execution ☐ Imposition of sentence suspended for probation period ☐ COUNT ☐ PA \$ ☐ PC290.3

☐ COURT ☐ FORM / PROBATION GRANTED for ☐ Days / Mos / Yrs ☐ AIDS / CPP ☐ PA \$ ☐ SORP

☐ Report to APO within ☐ Days ☐ Terminated ☐ Upon Release ☐ DP ☐ PA \$ ☐ EMAT

☐ Perform ☐ Hrs / Volunteer Work as directed PO / SAP ☐ LAB ☐ PA \$ ☐ PA \$

☐ Not drive w/o valid DL ☐ Adv VC23600 ☐ HTO ☐ Re-refer ☐ DRF / RF ☐ Add'l RF ☐ Susp'd PC1202.44/4

☐ MOP ☐ FOP ☐ 12 hrs ☐ 3 mos ☐ 9 mos ☐ Enroll within ☐ days ☐ AEF ☐ Original Fine \$

☐ DL Susp / Restr'd / Rv'd for ☐ IID Not Ordered / Rm'd Term ☐ Yrs ☐ SECA / COP ☐ CTS PC2900.5 \$

☐ No contact with ☐ family / co-defts unless appr by APO ☐ PC1202.05 ☐ ICMF ☐ TOTAL DUE

☐ DVPO issued / mod / term'd Exp ☐ Victim Present ☐ ICIN ☐ Payments Granted / Modified

☐ No Contact ☐ Peaceful Contact ☐ DSA thru APO / DOR / CRT ☐ Filed ☐ AR ☐ / Mo beginning

☐ Not own/possess deadly weapons ☐ Destroy/return weapon ☐ SHELTER ☐ FINE STAYED ☐ DV

☐ Stay away from ☐ Submit Search/Testing ☐ Educ/Voc Tmg/Empl ☐ No alcohol / drugs or where sold ☐ AR ☐ Committed @ \$300 / day ☐ May Pay Out

☐ Substance Abuse / Psych / Theft / Anger Mgmt / DV / Parenting cnsr / program ☐ ASES25 / CRF \$10 ☐ Fine / Fees ☐ Deemed Satisfied ☐ Committed

☐ PC296 (DNA) ☐ PC4202-1 HIV Test / Education ☐ P/INVEST ☐ P/SUP ☐ / Mo ☐ Waived

VOP: ☐ Wav ☐ Admits/Denies Viol ☐ Court Finds VOP / No VOP ☐ CJA F \$129.75 / \$259.50 ☐ Add'l Fees Waived

Prob Rein / Mod / Term'd / Revoked / Remains Revoked / Ext to ☐ SECA, ICMF, ICIN, CJA F, PINVEST, PSUP, FEES NOT COND. OF PROB

☐ Original Terms & Conditions Except as Amended herein ☐ Restit Gen \$ ☐ to

☐ Co-terminous with ☐ No Further Penalties / Reviews ☐ As determined by APO/Court ☐ Referred to VWAC ☐ Collect Civilly

Other:

JAIL/PRISON ☐ See Attachment ☐ CDCR/Parole collect restd from Def's earnings ☐ Blended Sentence ☐ County Jail

Count F/M ☐ Violation: ☐ Prison Term: Yrs ☐ Enhancement: Yrs ☐ Yrs / Std / Yr Strk ☐ HRS / DAYS / MOS

Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Total

CTS = ACT + 4019 ☐ 1/2 ☐ 1/4 ☐ PC2933.1 ☐ Total Total term ☐ CDCR / PC 1170h

☐ Straight time ☐ In Camp ☐ WWP ☐ PC1209 Fees ☐ Waived ☐ Court Rec ☐ All / Except ☐ EMP/PSP/ERP/DRP/Co Parole

☐ Sent Deemed Srv ☐ Rpt to Parole/Prob w/in ☐ Adv/ORD ☐ Yrs/Mos Parole/MS/PRCS/Appeal ☐ Consec ☐ Conc to

☐ Bal CJ Susp ☐ All but mos Hrs/Days/Mos ☐ On Cond Complete Residential Treatment Prgm ☐ Serve Consec MOTU/WE/TH/FR/SA/SU

☐ Pre-process ☐ AM/PM ☐ Stay / Surrender / Transport to ☐ @ ☐ AM/PM or Sooner

☒ REMAIND-BAIL \$ ☐ REMAIN AS SET ☐ NO BAIL ☐ COMMITTED ☐ RELEASED ☐ OR ☐ SORP ☐ JAC PHONE ASSMT ☐ P36

☐ AS COND OF SORP ☐ BAIL INCREASED / REDUCED ☐ TO PRGM AS REC BY JAC DOC TO ARRANGE TRANSPORT UPON AVAIL BED

824



JEFF ROSEN, DISTRICT ATTORNEY #163589  
 ALISON FILO, DEPUTY DISTRICT ATTORNEY # 1838  
 COUNTY GOVERNMENT CENTER, West Wing  
 70 W. Hedding St., 7<sup>th</sup> Floor  
 San Jose, CA 95110  
 Telephone: 408/792-2891

Attorneys for the People

**FILED**  
 MAY 31 2013

DAVID H. YAMASAKI  
 Chief Executive Officer/Clerk  
 Superior Court of Santa Clara County  
 BY [Signature] DEPUTY

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA**

PEOPLE OF THE STATE OF CALIFORNIA,	)	NO. C1223754
	)	
Plaintiff,	)	PEOPLE'S OPPOSITION
	)	TO DEFENDANT'S MOTIONS
vs.	)	<i>IN LIMINE</i>
	)	
CRAIG CHANDLER,	)	
	)	
Defendant.	)	
_____	)	

**I.**

**DEFENDANT CAN BE IMPEACHED WITH HIS ATTEMPTED BURGLARY CONVICTION**

**1. The Defendant's Guilty Plea Constitutes a Felony Conviction**

On January 24, 1996, in Santa Cruz County Information No. SC 951388, the Defendant entered guilty pleas on the Complaint as follows: (1) Felony Attempted Burglary: Residential on or about November 7, 1995; and, (2) Misdemeanor Attempted Burglary: General, on or about November 7, 1995. Count 1 specifies that the crime was an



1 attempt to "enter an inhabited dwelling house ... and inhabited portion of a building ...  
 2 with the intent to commit larceny and any felony." The crime is identified as a serious  
 3 Felony within the meaning of Penal Code Section 1192.7(c)(18) – making it a strike.  
 4 Count 2 alleges a violation of "Attempted Burglary, in violation of Section 664/459 of the  
 5 Penal Code, a Misdemeanor" ... for the defendant's "attempt to enter a House, located at  
 6 714 Timber Trail, Pacific Grove, with the intent to commit larceny and a Felony."  
 7

8 The charges arose from the defendant trespassing on to a neighbor's property and  
 9 cutting her screen door with the intent to enter. He told the police officer that "the thought  
 10 of doing something wrong or illegal was tempting, but he realized that it was wrong and  
 11 did not go into the residence." When asked why he would want to go into the residence,  
 12 Chandler replied "he went to the neighbor's house, to possibly get money to buy  
 13 marijuana."  
 14

15 The plea agreement between the parties contemplated a dismissal of Count 1 if the  
 16 defendant successfully completed probation on Count 2. The Court specifically asked the  
 17 parties about the agreement since it was apparent to everyone that the parties had agreed to  
 18 have the defendant plead guilty and be sentenced to a crime that does not exist – attempted  
 19 first degree burglary. The defense attorney at the time acknowledged that the parties had  
 20 created "somewhat of a legal fix ... So long as he completed the probation on the  
 21 misdemeanor, the felony would be dismissed. If he violated probation on a misdemeanor,  
 22 then the Court could sentence him on the felony." From that point forward, the defendant  
 23 had a Strike Prior that could be alleged for all purposes.  
 24  
 25  
 26

1 The general rule is that a conviction occurs upon a plea of guilty, a court verdict, or a  
 2 jury verdict and does not require sentencing. This basic law applies to strike priors whether  
 3 they are wobblers or non-alternative felonies, subject only to reduction to a misdemeanor at  
 4 initial sentencing. *People v. Queen* (2006) 141 Cal.App.4th 838. In *Queen*, the defendant's  
 5 P.C. 422 wobblers constituted strike priors because they ultimately remained as felonies when  
 6 the defendant was sentenced on them to state prison. The sentencing in the P.C. 422 case took  
 7 place after the defendant committed new crimes by attacking the prosecutor as the jury verdict  
 8 on the P.C. 422 offenses was being read. The P.C. 422 convictions constituted strike priors  
 9 even though the defendant had yet to be sentenced on them when he committed the new  
 10 crimes. The *Queen* court specifically disagreed with the *dicta* in *People v. Williams* (1996) 49  
 11 Cal.App.4th 1632, 1638-1639, which stated that when a strike prior is a wobbler, "conviction"  
 12 includes the pronouncement of sentence because only then can it be determined whether the  
 13 offense is a felony or misdemeanor for purposes of the strike law.  
 14

15  
 16 A serious felony reduced after initial sentencing does constitute a strike prior. For  
 17 example, a felony P.C. 245(a)(1) involving a deadly weapon might have been reduced to a  
 18 misdemeanor when the defendant successfully completed probation. This P.C. 245(a)(1)  
 19 would continue to constitute a strike prior. Therefore, a crime that is currently listed on a  
 20 defendant's criminal history as a misdemeanor may qualify as a strike prior because it  
 21 remained a felony when the defendant was initially sentenced.  
 22

23 This case is precisely the same. The defendant was required to complete a term of  
 24 probation in order to have the Felony charge dismissed. The defendant pled guilty to a non-  
 25

1 alternative felony that neither was, nor could it have been, reduced to a misdemeanor at any  
 2 time. It is a legal absurdity to argue now that the defendant did not actually suffer a  
 3 "conviction" for a crime to which he pled guilty. His plea was not withdrawn. There was no  
 4 finding of factual innocence. Had he violated the terms of his probation during the  
 5 probationary period, his guilty plea would have been the basis upon which he was sent to  
 6 prison without any argument from anyone that he had not actually suffered a conviction.  
 7 Having the charge dismissed at a later date, has no effect on its existence as a strike prior.  
 8

9 **2. The People Can Use the Defendant's Misdemeanor Conviction for**  
 10 **Attempted Burglary to Impeach Him Should He Choose to Testify**

11 The defense dedicates three full pages to the argument that the misdemeanor  
 12 conviction cannot be used to impeach the defendant. First, the defense erroneously cites  
 13 Evidence Code section 788 for the proposition that it "limits impeachment by previous  
 14 crimes to felony convictions." Evidence Code section 788 authorizes a party to impeach a  
 15 witness with a felony conviction. It says *nothing* about misdemeanor convictions. To read  
 16 the Section to mean that felony convictions are the *only* convictions that can be used for  
 17 impeachment creates a limitation that the statute does not actually impose. Accordingly,  
 18 Evidence Code section 788 does not stand for the proposition that the defendant cannot be  
 19 impeached with his misdemeanor conviction.  
 20

21 The defense then argues that *People v. Wheeler* (1992) 4 Cal.4<sup>th</sup> 284, is controlling  
 22 authority for the proposition that "the fact of conviction of a misdemeanor remains  
 23 inadmissible for impeachment purposes."  
 24  
 25  
 26

1 The defense makes no mention of Evidence Code section 452.5 and *People v.*  
 2 *Duran* (2002) 97 Cal.App.4<sup>th</sup> 1448, which have both abrogated *Wheeler*. Evidence Code  
 3 section 452.5 was enacted in 1996 in direct response to *Wheeler* and created “a hearsay  
 4 exception allowing admission of qualifying court records to prove not only the fact of  
 5 conviction, but also that the offense reflected in the record occurred.” (*Duran* at 1460.)  
 6

7 Should the defendant choose to testify, the People can properly impeach him with  
 8 his misdemeanor conviction for “Attempted Burglary: General” for attempting to enter a  
 9 House with the intent to commit larceny and a Felony.

10 **3. The Conviction is More Probative than Prejudicial**

11 The only remaining issues are those of Evidence Code section 352. Should the  
 12 defendant choose to testify, he would be the only adult with percipient knowledge of what  
 13 actually happened in his classroom. Although the conduct is somewhat remote, the  
 14 defendant’s credibility will be of the highest relevance. Any conduct which reflects on his  
 15 truthfulness is critical for the jury to hear. Attempted residential burglary is a classic crime  
 16 of moral turpitude which has long been recognized as a crime of dishonesty. It is  
 17 sufficiently dissimilar from the instant charges that it would not be used by the jury as  
 18 “character evidence” – there is no argument that they would assume someone who would  
 19 commit a crime of burglary would commit an act of child molestation. Instead, they would  
 20 use it for precisely what it is intended to be used for – evaluating a witness’s character for  
 21 truthfulness. The probative value gained by giving the jury information relevant to the  
 22 defendant’s credibility is not substantially outweighed by the prejudice the defendant might  
 23  
 24  
 25  
 26



suffer for the jury learning about a crime of moral turpitude so dissimilar from the one at bar.

## II.

### MARY MONTGOMERY'S TESTIMONY IS RELEVANT AND ADMISSIBLE

The defense suggests that the proposed testimony of Mary Montgomery is inadmissible. In short, Mary Montgomery is a teacher who had a classroom adjoining the defendant's. She recalled an occasion during which she heard pounding on the door of the defendant's classroom. She looked outside to see one of her former students knocking hard on the door. She asked the student what was happening and the student told her that the door was locked. Minutes later (probably more like seconds), the door opened and the defendant stood in the doorway.

The defense claims that the proposed testimony is hearsay without exception. The statement however is well within the recognized exception stated in Evidence Code section 1241 which states: "Evidence of a statement is not made inadmissible by the hearsay rule if the statement: (1) is offered to explain, qualify or make understand conduct of the declarant; and (2) the statement was made while the declarant was engaged in such conduct. The People can think of no better example of an Evidence Code section 1241 statement – the student was engaged in the conduct of banging on the door and gave a statement to Ms. Montgomery explaining why he was doing so.

The defense then argues that the conduct is irrelevant because there is no direct evidence that the defendant was engaged in inappropriate conduct during this one occasion.

1 The argument goes to weight not admissibility. The defense is free to make those  
 2 suggestions in closing argument and is free to cross examine the witness on this subject. It  
 3 is however, relevant to the issues in the case that the defendant would have the door to his  
 4 classroom locked during regular school hours while his students were supposed to be  
 5 engaged in P.E.  
 6

### 7 III.

#### 8 EXPERT TESTIMONY ON THE TOPIC OF SELECTION AND 9 GROOMING IS ADMISSIBLE

10 The defense argues that expert testimony on the process of selection and grooming  
 11 is improper because it is unnecessary. Primarily, the defense suggests that expert testimony  
 12 is not needed in order to dispel jurors' beliefs that child molesters are easily  
 13 identified as dirty old men in wrinkled rain coats who snatch children off the streets.  
 14 Agreed.  
 15

16 It is expected that the defense will argue that dozens of children engaged in the  
 17 sensory deprivation "exercise" during which the People allege that the victims identified in  
 18 Counts 1 through 5 were molested. It is further expected that the defense will argue that if  
 19 the "non-victims" weren't molested in the course of this "lesson", then the alleged victims  
 20 are simply misunderstanding or exaggerating what the defendant did to them. The People  
 21 are entitled to rebut that allegation.  
 22

23 Despite what's in the media, it is well beyond the knowledge of a juror to know  
 24 how or why these particular victims were selected and not others. It is through the process  
 25  
 26

generally known as “grooming” – the gaining of trust, the selection of particularly vulnerable victims, and the normalizing of the behavior – that this process occurs.

Unlike the facts of the case cited by the defense, *United States v. Raymona* (D. Me. 2010) 700 F. Supp.2d 142, this is not a case where the defendant used tactics that were “hardly rocket science” (referring to the commonly used grooming technique of using attention, affection, kindness, privileges, etc., to gain trust.) It is the People’s contention that the defendant engaged in a selection and de-sensitization process in selecting his victims. Unless the jurors are child molesters themselves, or have interviewed dozens of child molesters, the jury would have no way of understanding how child molesters seek and choose their victims.

For these reasons, the evidence is admissible.

Dated: May 29, 2013

Respectfully submitted,

JEFFREY ROSEN  
DISTRICT ATTORNEY

By

  
ALISON FILO  
Deputy District Attorney

Brian Madden, SB# 55869  
 MADDEN & REDDING  
 1625 The Alameda, Suite 801  
 San Jose, California 95126  
 Telephone: (408) 275-8100  
 Facsimile: (408) 275-8199

Attorney for Defendant  
 CRAIG RICHARD CHANDLER

**FILED**

MAY 31 2013

DAVID H. YAMASAKI  
 Chief Executive Officer/Clerk  
 Superior Court of Santa Clara  
 BY                      DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 IN AND FOR THE COUNTY OF SANTA CLARA

PEOPLE OF THE STATE OF CALIFORNIA, )

Plaintiff, )

v. )

CRAIG RICHARD CHANDLER, )

Defendant. )

Case No. C1223754

**DEFENDANT'S REPLY TO THE  
 PEOPLE'S OPPOSITION TO  
 DEFENDANT'S MOTION IN  
 LIMINE**

**INTRODUCTION**

Mr. Chandler has filed five motions in limine. The People have filed an opposition as to three of them: (1) the motion to exclude, for purposes of impeachment, evidence of Mr. Chandler's prior convictions; (2) the motion to exclude the testimony of Mary Montgomery about the door to Mr. Chandler's classroom being locked on one occasion; and (3) the motion to exclude grooming evidence. The People's pleading contains no opposition to Mr. Chandler's (1) motion to admit testimony from Dr. William O'Donohue, an expert in the interviewing of victims of child sexual abuse; and (2) motion to exclude evidence related to an incident involving Mr. Chandler and Hilda Keller.

Mr. Chandler submits that the People's opposition to the three above-described motions lacks merit for the reasons which follow.

834

ARGUMENT

**I. THE COURT SHOULD EXCLUDE, FOR PURPOSES OF IMPEACHMENT, EVIDENCE OF MR. CHANDLER'S PRIOR CONVICTIONS**

**A. The Prior Conviction Was Not a Felony Conviction**

Mr. Chandler's prior case involved an unusual situation. It stemmed from a single act of attempted burglary. One would think that this would have resulted in a single charge of attempted burglary and a conviction for a single crime of attempted burglary. But that is not what happened.

Instead, Mr. Chandler pleaded guilty to separate counts of felony attempted burglary and misdemeanor attempted burglary that were based on the single act. The offenses were disposed of in a plea agreement that involving probation being imposed for the misdemeanor (but not for the felony) and the felony being dismissed if he completed probation successfully. Mr. Chandler did, in fact, complete probation successfully and the felony was dismissed. This was an unusual procedure whose only apparent purpose was to avoid using the procedure set forth in Penal Code §1203.4. Under section 1203.4, Mr. Chandler would have been placed on probation for the felony, the felony would have been dismissed following successful completion of probation, but the conviction would be deemed a felony for purposes of impeachment in any later case involving a criminal charge.

The procedure in the prior case raises two legal concerns. One relates to whether the procedure resulted in a conviction for a felony despite the later dismissal of the felony. The other relates to whether the obvious intent of the parties, which was to avoid not only a felony conviction but also to avoid any collateral consequences that section 1203.4 would allow, should control. It is Mr. Chandler's position that there was no felony conviction. But even if the plea bargain in the prior case might be construed as a technical felony conviction, the intention of the parties to avoid all felony consequences controls.

Based on *People v. Queen* (2006) 141 Cal.App.4th 838, the People argue that the guilty plea to a felony in the prior case amounted to a conviction for a felony because a conviction occurs on the date of the guilty plea. (Opposition at p. 3.) The People overlook that *Queen* deals

835

1 with a different issue than the one Mr. Chandler raises, is based on statutory language that does  
2 not apply here, and is premised on a different legal purpose than the one applicable here. The  
3 issue in *Queen* was when a prior conviction is deemed a strike for purposes of sentencing for a  
4 later crime. (*People v. Queen, supra*, 141 Cal.App.4th at pp. 842-843.) The controlling statutory  
5 language was Penal Code §667, subdivision (d)(1), which provides that a “determination of  
6 whether a prior conviction is a prior felony conviction for purposes of [the three strikes law]  
7 shall be made upon the date of that prior conviction and is not affected by the sentence imposed  
8 unless the sentence automatically, upon the initial sentencing, converts the felony to a  
9 misdemeanor.” (*Id.* at p. 842, quoting the relevant language of section 667, subdivision (d)(1);  
10 brackets in original.) The purpose of the rule in *Queen* is to deter and punish a defendant who  
11 becomes a repeat offender before punishment is imposed in a prior case. (*Id.* at p. 843.) *Queen*  
12 does not discuss when something becomes a conviction for purposes of impeachment with a  
13 prior conviction. Nor does it purport to apply to other settings that do not fall within the  
14 language of the three strikes law. Nor do its purposes of deterrence and punishment apply to the  
15 impeachment context. Also, it does not address whether the parties may enter a plea agreement  
16 to avoid making a conviction a felony for all purposes.

17 The limited application of *Queen* is clear from a very recent California Supreme Court  
18 case decided on May 13, 2013 – *People v. Park* (2013) 2013 Cal. LEXIS 4006. There, the Court  
19 held that a prior conviction for a serious felony – which subjects a defendant to a five-year  
20 enhancement under Penal Code §667, subdivision (a) – does not apply when the trial court later  
21 reduces the crime to a misdemeanor and then dismisses it under section 1203.4. (*Id.* at \*1-\*2.)  
22 The Court in *Park* mentioned the decision in *Queen* as being based on specific statutory  
23 language that was not applicable to the case before the Supreme Court. (*Id.* at \*35.) *Queen*  
24 similarly is not applicable to Mr. Chandler’s case.

25 The term conviction can mean (1) a verdict or plea of guilty, or (2) the judgment imposed  
26 following the verdict. (*People v. Rojas* (1988) 206 Cal.App.3d 795, 801.) Even within a  
27 specific statutory provision, the word conviction can be used to mean both rather than being used  
28 consistently. (*People v. Overstreet* (1986) 42 Cal.3d 891, 900, fn. 7.) Accordingly, “the term

1 'conviction' has historically had, and continues to have, at least two accepted meanings: (1) the  
2 jury verdict, and (2) the judgment following the verdict." (*Helena Rubenstein International v.*  
3 *Younger* (1977) 71 Cal.App.3d 406, 413.) Here, we are dealing with the use of a prior  
4 conviction for impeachment purposes. The People cite no case holding that a conviction for  
5 impeachment purposes is based on what occurred at the time of the plea rather than at the time  
6 of disposition.

7 In any event, the primary consideration here is not how the term conviction is used in  
8 other contexts, but rather how it was used in the prior case. If the People had wanted to have the  
9 felony conviction available for later use for purposes of impeachment, they simply could have  
10 charged the act as a felony. If they had done so, Mr. Chandler would have been placed on felony  
11 probation. Upon successful completion of probation, he could have applied to withdraw the  
12 plead under Penal Code §1203.4 and have the charge dismissed. This would have allowed the  
13 conviction to be used to impeach Mr. Chandler at trial, pursuant to Evidence Code §788,  
14 subdivision (c).

15 Instead of doing this, the People pleaded the single act of attempted burglary as both a  
16 misdemeanor and a felony and entered an agreement whereby Mr. Chandler would plead guilty  
17 to both the misdemeanor and the felony, and the felony would be dismissed if he successfully  
18 completed probation. At the January 26, 1996, hearing at which Mr. Chandler entered his plea,  
19 defense counsel explained why the parties had come up with this unusual procedure: "So long  
20 as he completed probation on the misdemeanor, the felony would be dismissed. . . . The idea  
21 was to ensure if he completed misdemeanor probation he would not have a felony conviction."  
22 (RT of 1/24/96, p. 2 – Exhibit D of Mr. Chandler's motion.)

23 The obvious intent in using this novel procedure here was to avoid completely the usual  
24 1203.4 procedure and to use, instead, a procedure that would completely nullify all felony  
25 aspects and effects of the conviction, including its use for impeachment. What the People are  
26 asking is that the Court nullify a part of the agreement that they themselves entered in the prior  
27 case and remake the bargain so it gives them a benefit in the present case. A party should be  
28 bound by its agreement and should be afforded no legal right to have the agreement rewritten

1 more favorably years later. If the People wanted to use the conviction for impeachment, they  
2 simply could have charged a single crime – a felony.

3 The prior conviction was not a felony conviction and cannot be used for impeachment.

4 **B. A Misdemeanor Conviction Cannot Be Used for Impeachment and Should Not**  
5 **Be So Used Here**

6 The People argue that Evidence Code §452.5 and *People v. Duran* (2002) 97 Cal.App.4th  
7 1448 abrogate the holding in *People v. Wheeler* (1992) 4 Cal.4th 284 and allow for impeachment  
8 with a misdemeanor conviction. (Opposition at pp. 4-5.) It is not at all clear that the People are  
9 correct.

10 In *Wheeler* the Court held that a misdemeanor conviction is inadmissible hearsay when  
11 offered as evidence that a witness committed misconduct bearing on credibility. (*People v.*  
12 *Wheeler, supra*, 4 Cal.4th at pp. 297-300.) The Court stated, however, that nothing precluded  
13 the Legislature from creating a hearsay exception that would allow the use of a misdemeanor  
14 conviction for impeachment in criminal cases. (*Id.* at p. 300, fn. 14.)

15 Evidence Code §452.5 was enacted a few years after *Wheeler*. It provides: “(a) The  
16 official acts and records specified in subdivisions (c) and (d) of Section 452 include any  
17 computer-generated official court records, as specified by the Judicial Council which relate to  
18 criminal convictions, when the record is certified by a clerk of the superior court pursuant to  
19 Section 69844.5 of the Government Code at the time of computer entry. (b) An official record  
20 of conviction certified in accordance with subdivision (a) of Section 1530 is admissible pursuant  
21 to Section 1280 to prove the commission, attempted commission, or solicitation of a criminal  
22 offense, prior conviction, service of a prison term, or other act, condition, or event recorded by  
23 the record.” The section contains no language stating that a misdemeanor conviction can be used  
24 for purposes of impeachment.

25 Nor was this the intent of the section. Instead, the Legislature explained as follows the  
26 intent of the section: “It is the intent of the Legislature to simplify recordkeeping and admission  
27 in evidence of records of criminal convictions by establishing a central computer data base of  
28 that data, and by authorizing admission in evidence of this computer data. It is anticipated that



1 this will result in considerable savings of time and money by state and county courts and  
2 agencies while improving or maintaining the accuracy of the records.” (Stats. 1996, ch. 642, §2.)

3 In *Duran*, however, the Court of Appeal held that section 452.5 provides a hearsay  
4 exception of the sort *Wheeler* said the Legislature had the power to pass. (*People v. Duran*,  
5 *supra*, 97 Cal.App.4th at pp. 1459-1461.) The Court in *Duran* concluded “that Evidence Code  
6 section 452.5, subdivision (b) creates a hearsay exception allowing admission of qualifying court  
7 records to prove not only the fact of conviction, but also that the offense reflected in the record  
8 occurred.” (*Id.* at p. 1460.) But *Duran* involved the proof of prior felony conviction for  
9 purposes of showing a pattern of criminal gang activity – an element of a street gang  
10 enhancement under Penal Code §186.22. (*Id.* at pp. 1457-1461.) The appellate courts have not  
11 addressed whether section 452.5 permits the admission of a misdemeanor conviction. And in  
12 a case decided 10 years after the Legislature enacted section 452.5, the Supreme Court stated,  
13 citing *Wheeler* “Misdemeanor convictions themselves are not admissible for impeachment,  
14 although evidence of the underlying *conduct* may be admissible subject to the court’s exercise  
15 of discretion.” (*People v. Chatman* (2006) 38 Cal.4th 344, 373, italics in original.)

16 The law, in short, is far from clear. *Duran*, a Court of Appeal case, suggests that *Wheeler*  
17 has been abrogated and that the fact of a misdemeanor conviction is admissible. But *Duran* did  
18 not deal with the question of the admissibility of a misdemeanor conviction at all. *Chatman*, a  
19 Supreme Court case, suggests that *Wheeler* continues to state the governing standard, although  
20 it does not mention section 452.5. Yet *Chatman* deals with admission of a misdemeanor  
21 conviction. The lack of clarity in the law puts trial courts in a bind. It is not at all clear if a  
22 defendant can be impeached with a misdemeanor conviction.

23 There is, however, another important set of considerations that the Court must apply.  
24 Even assuming for the sake of argument that the fact of a prior misdemeanor conviction is  
25 admissible, a court still has broad discretion under Evidence Code §352 when determining  
26 whether to admit or exclude the evidence. This discretion applies irrespective of whether the  
27 offense is a felony or a misdemeanor. In his motion, Mr. Chandler explained at length that the  
28 Court should exercise its discretion to exclude the prior burglary regardless of whether it was

839

1 a felony or a misdemeanor. When doing so, Mr. Chandler identified and analyzed the factors  
2 that are relevant to such a determination. (Motion at pp. 8-10 [factors relevant to a felony] and  
3 pp. 11-13 [factors relevant to a misdemeanor].)

4 The People argue that the evidence of the conviction is more probative than prejudicial  
5 within the meaning of Evidence Code §352. (Opposition at pp. 5-6.) There are flaws in the  
6 People's argument.

7 First, the People argue that because Mr. Chandler's credibility is highly relevant, any  
8 conduct which reflects on his truthfulness is critical for the jury to hear. (Opposition at p. 5.)  
9 None of the cases discussing the 352 analysis support this statement. The question is not  
10 whether credibility is important, but rather whether the probative value of the evidence on the  
11 issue of credibility is outweighed by its potential for prejudice and confusion.

12 The People say the conduct in the prior case is "somewhat remote." (Opposition at p. 5.)  
13 This understates the factor of timeliness. The prior conviction is 17 years old and has been  
14 followed by a legally blameless life. The remoteness is great and this reduces the probative  
15 value of the prior conviction. As the California Supreme Court noted, when quoting from an  
16 opinion by Chief Justice Burger before his elevation to the United States Supreme Court: "The  
17 nearness or remoteness of the prior conviction is also a factor of no small importance. *Even one*  
18 *involving fraud or stealing, for example, if it occurred long before and has been followed by a*  
19 *legally blameless life, should generally be excluded on the ground of remoteness.*" (*People v.*  
20 *Beagle* (1972) 6 Cal.3d 441, 453, quoting *Gordon v. United States* (D.C. Cir. 1967) 383 F.2d  
21 936, 940, italics added.) The People offer no reason why this rule of general exclusion based  
22 on remoteness should not apply here.

23 The People say that burglary is a crime of dishonesty. This is true. But it connotes  
24 dishonesty in a monetary sense rather than dishonesty in the sense of untruthfulness and  
25 therefore is not intimately connected to testimonial veracity. (See, e.g., *People v. Rollo* 20  
26 Cal.3d 109, 118 ["No one denies that different felonies have different degrees of probative value  
27 on the issue of credibility. Some, such as perjury, are intimately connected with that issue;  
28 others, such as robbery and burglary, are somewhat less relevant. . . ."].)

840

1 The People say that the jury will use the evidence of the burglary only on the issue of  
 2 truthfulness and would not assume from the evidence that Mr. Chandler would commit child  
 3 molestation. (Opposition at p. 5.) The People overlook the danger that the jury might use the  
 4 evidence to view Mr. Chandler as a person with a criminal disposition who has committed a  
 5 serious crime in the past. As the Supreme Court has noted: "There is also the obvious danger  
 6 that the jury will decide that based on his prior convictions, the accused ought to be put away  
 7 without too much concern with present guilt. Further, the admission of prior convictions often  
 8 confuses the issues at trial and draws the jurors' minds away from the real issue of guilt or  
 9 innocence." (*People v. Fries* (1979) 24 Cal.3d 222, 228, citations, internal quotation marks and  
 10 brackets omitted.)

11 The People also do not discuss the factor related to the importance of assuring that the  
 12 jury hears the defendant's testimony and that the defendant does not decline to testify out of fear  
 13 of impeachment. (Motion at p. 9 and case there discussed.)

14 In addition, to the extent the offense is a misdemeanor, it is less probative of credibility  
 15 than is a felony. (Motion at p. 11.)

16 Mr. Chandler respectfully asks the Court to weigh all relevant considerations, not just  
 17 some of them, and to exercise its discretion to exclude the evidence of the prior conviction.

## 18 **II. THE TESTIMONY OF MARY MONTGOMERY SHOULD BE EXCLUDED**

19 Mr. Chandler filed a motion asking the Court to exclude the testimony of Mary  
 20 Montgomery about the door to Mr. Chandler's class being locked. Mr. Chandler argued that  
 21 there were three separate bases for excluding the evidence – it is hearsay, irrelevant and  
 22 inadmissible under Evidence Code §352. The People argue that the evidence is admissible.  
 23 (Opposition at pp. 6-7.) The People's argument lacks merit.

24 The source for the evidence about the door being locked is not Ms. Montgomery's own  
 25 perceptions, but is rather a statement that a student made to her. The People argue that the  
 26 student's statement is admissible under the hearsay exception for contemporaneous statements  
 27 in Evidence Code §1241. (Opposition at p. 6.) The People are incorrect.

28 Section 1241 provides: "Evidence of a statement is not made inadmissible by the hearsay

1 rule if the statement: (a) Is offered to explain, qualify, or make understandable conduct of the  
 2 declarant; and (b) Was made while the declarant was engaged in such conduct.” The 1965 Law  
 3 Revision Comment to section 1241 explains the origin of section 1241 in terms of law existing  
 4 at the time of the adoption of the Evidence Code, stating: “Under existing law, where a person’s  
 5 conduct or act is relevant but is equivocal or ambiguous, the statements accompanying it may  
 6 be admitted to explain and make the conduct or act understandable.” In this case, the conduct  
 7 of the student who knocked on the door of Mr. Chandler’s classroom was not equivocal or  
 8 ambiguous. There is nothing equivocal or ambiguous about the act of knocking on a door.  
 9 Everyone understands this sort of conduct.

10 In addition, section 1241 does not make a statement admissible if the conduct that is being  
 11 explained is conduct that is not in issue in the case. (*People v. Hines* (1997) 15 Cal.4th 997,  
 12 1034, fn. 4.) In *Hines*, the conduct consisted of a phone call between Jiy Williams and Donna  
 13 Roberts. (*Id.* at p. 1034.) The defendant was convicted, among other things, of killing Roberts.  
 14 (*Id.* at pp. 1015-1016.) Williams lived next door to Roberts. According to Williams, Roberts  
 15 sounded nervous and scared during their conversation. Williams heard two or three male voices  
 16 in the background and heard one of the voices tell Roberts to hurry up and get off the phone.  
 17 When Williams asked who was present, Roberts told him. (*Id.* at p. 1016.) The trial court ruled  
 18 that Roberts’s statement to Williams that the defendant was present was inadmissible hearsay.  
 19 (*Id.* at p. 1034.) The Attorney General challenged this ruling, contending that the statement was  
 20 admissible as a spontaneous declaration under Evidence Code §1240 or as a contemporaneous  
 21 statement to explain Roberts’s conduct under Evidence Code §1241. The Supreme Court held  
 22 that the Attorney General could not assert these bases for admission because the prosecutor had  
 23 not argued them at trial. The Supreme Court went on to discuss and reject both grounds for  
 24 admissibility. It concluded: “The statement was not admissible to explain the conduct of Donna  
 25 Roberts (Evid. Code, § 1241), as her conduct was not in issue.” (*Id.* at p. 1034, fn. 4.)

26 *Hines* is fatal to the People’s argument that section 1241 applies here. In *Hines*, the  
 27 conduct in question was the conduct of the victim of the homicide and the statement in question  
 28 was her statement shortly before she was murdered. Here, the conduct was that of a random

842

1 student knocking at the door of Mr. Chandler's classroom. If the conduct and statement in *Hines*  
2 do not fall within the parameters of section 1241, a fortiori neither do the conduct and the  
3 statement of the student in this case. The conduct of the student in Mr. Chandler's case was no  
4 more in issue than was the conduct of the victim in *Hines* shortly before her death.

5 The student's statement is hearsay. As explained above, the statement does not fall within  
6 the contemporaneous statement hearsay exception. The statement is therefore inadmissible on  
7 hearsay grounds.

8 In his in limine motion, Mr. Chandler further contended that Ms. Montgomery's  
9 testimony was inadmissible on two additional grounds – lack of relevance and Evidence Code  
10 §352. With respect to relevance, the People say Mr. Chandler's argument is that there was no  
11 direct evidence that he was engaged in inappropriate conduct on this occasion and that this goes  
12 to weight rather than admissibility. (Opposition at 6-7.) It was not Mr. Chandler's argument that  
13 there was no direct evidence of inappropriate conduct. Instead, it was his argument that a locked  
14 classroom, without more, has no relevance. The People do not explain what the relevance of the  
15 locked door is. That is, they do not identify the disputed issue it has a tendency in reason to  
16 prove. Instead, the People simply state that having a locked classroom door during school hours  
17 when students were supposed to be at P.E. is "relevant to the issues in this case." (Opposition  
18 at p. 7.) But the People do not identify the issue to which this is relevant or explain how it is  
19 relevant to that issue, whatever that issue might be.

20 The People, as the proponent of the evidence, have the burden of establishing by a  
21 preponderance of the evidence foundational facts necessary for admission. (*People v. Herrera*  
22 (2000) 83 Cal.App.4th 46, 60-61.) The failure to identify the issue to which the evidence is  
23 relevant and to explain how the evidence tends in reason to prove that issue do not satisfy this  
24 requirement and provide no principled basis for admitting the evidence.

25 Finally, the People offer no explanation of how the probative value of the evidence,  
26 assuming for the sake of argument it has any, outweighs the prejudicial effect and danger of  
27 confusion of the issues and confusion of the jury inherent in simply telling the jury the door to  
28 the classroom was locked on one occasion. There is nothing indicating anyone was in the

843

1 classroom with Mr. Chandler. Being alone in a classroom had no apparent probative value, but  
2 it does carry the prejudicial implication that Mr. Chandler was doing something unknown but  
3 nefarious that he wanted to hide from view.

4 **III. EVIDENCE OF GROOMING SHOULD BE EXCLUDED**

5 In his in limine motion related to grooming, Mr. Chandler argued that the evidence of  
6 grooming should be excluded for five separate reasons, any one of which is sufficient, in itself,  
7 as a basis for exclusion. The five bases for exclusion of the evidence are: (1) grooming is not  
8 a proper subject for expert testimony because it is something within a juror's common  
9 knowledge and there is therefore no need for an expert to testify about it; (2) grooming is not a  
10 proper subject for expert testimony because it is overbroad and confusing in that it in essence  
11 tells the jury that anyone who engages in social interaction with a child is acting in the way child  
12 molesters act; (3) the witness the prosecution plans to use does not qualify as an expert witness  
13 on the subject; (4) an actual expert explains in a declaration attached to Mr. Chandler's motion  
14 that there is no way to determine if conduct is sexual grooming or simply innocent conduct and  
15 there is therefore no way to prevent false conclusions that innocent conduct is sexual grooming  
16 (a false positive) or false conclusions that sexual grooming conduct is innocent (a false  
17 negative); and (5) the evidence is prejudicial because there is a substantial danger the jury will  
18 not use the evidence for a limited purpose and instead will use it on the improper issue of guilt  
19 or innocence.

20 Rather than address each of the grounds for exclusion which Mr. Chandler advanced, the  
21 People simply say the defense argues the evidence is unnecessary. (Opposition at 7-8.) This,  
22 however, was only one of the five grounds for exclusion which Mr. Chandler argued. Mr.  
23 Chandler submits that the evidence should be excluded because the People offer no reason to  
24 reject four of the reasons for exclusion which Mr. Chandler argued.

25 With respect to the one reason the People discuss, there is no need to have a purported  
26 expert testify for the People. The anticipated testimony of the victims will explain the conduct  
27 that the People say constitutes grooming. Any juror will understand that the conduct arguably  
28 was aimed at conditioning the alleged victims and gaining their trust. It requires no expert to

844

1 testify about something so obvious. The real reason for the expert is to suggest to the jury that  
2 Mr. Chandler acted in a manner consistent with the way a child molester acts. The evidence  
3 allows for a purported expert to testify, in effect, that Mr. Chandler is a child molester. As Mr.  
4 Chandler showed in his motion, this is actually not the case. But there is a danger that the jury  
5 will defer to the purported expert rather than deciding the much tougher question of whether the  
6 testimony of the children themselves convinces them of guilt beyond a reasonable doubt.


7 **CONCLUSION**

8 For the reasons set forth in his in limine motions and in this reply, Mr. Chandler  
9 respectfully asks the Court (1) to exclude, for purposes of impeachment, evidence of his prior  
10 convictions; (2) to exclude the testimony of Mary Montgomery of Mr. Chandler's classroom  
11 being locked on one occasion; and (3) to exclude evidence of grooming.

12 DATED:

13 5/31/13

Respectfully submitted,

14  
15   
16 BRIAN MADDEN  
17 Attorney for Defendant  
18 Craig Richard Chandler  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

845







SUPERIOR COURT  
190 W. HEDDING STREET  
SAN JOSE CA 95110

PEOPLE VS. CRAIG RICHARD CHANDLER  
L.K.A. 1361 N SAN PEDRO ST  
SAN JOSE, CA 95110

JUDGE HON. ARTHUR BOCANEGRA

REPORTER J. MIXCO *NOT REPORTED*  
DEF. ATTY. MADDEN, BRIAN (G)

D.A. A. FILO

CHARGES

F(001) PC288(A)

F(003) PC288(A)

F(005) PC288(A)

F(002) PC288(A)

F(004) PC288(A)

CASE NO. C1223754

CEN 12001535

DATE 06/06/2013 10/25/1976 9:00 AM DEPT. 37

CLERK E. DE SANTIAGO EBK966 M

HEARING MOTIONS IN LIMINE

AGENCY SJ- 04313- UNKNOWN

STATUS I-SET-NBA

APO

TW Y

VIOLATION DATE

09/01/2010

NEXT APPEARANCE

*Handwritten: 6-13 @ 2PM 037 MINS IN LIMINE*

☐ Defendant Present ☒ Not Present ☒ Atty Present ☐ AD / PD / IDO / Special App

☐ Arr'd ☐ Adv ☐ Aff Wav ☐ Amend Comp/Info ☐ Arr ☐ Plea ☐ IDC ☐ PTC ☐ Prob / Sent ☐ Interpreter ☐ Sworn

☐ PC977 ☐ Filed ☐ On File ☐ Repr. Adv / Wav ☐ Bail/ OR/ SORP ☐ Rect Dr Rpt ☐ FAR/ ERC ☐ Bail Apply ☐ Balance Exonerated

☐ NG ☐ Entered by CRT ☐ NGBRI / Adv ☐ PSet ☐ Prelim ☐ Readiness ☐ S / B MTC ☐ Bail Exonerated ☐ Forfeited ☐ Bond #

☐ Denies Priors/ Allegations/ Enhancements/ Refusal ☐ Further ☐ Jury ☐ CT ☐ Peo / Def Wav Jury ☐ Reassumption Filed ☐ Forfeiture Set Aside ☐ Bail Rein

☐ TW ☐ TNW ☐ TW / WD ☐ TW Sentence ☐ Ref'd ☐ Costs Within 30 Days to Court

☐ Ref / Appt PD / AD / IDO ☐ Conflict Decl ☐ APO / DADS/ Prop 36 ☐ P36 Re-Assmt ☐ SORP / OR ☐ Revoked ☐ Reinstated ☐ May Post & Forfeit

☐ Relieved ☐ Appt'd ☐ Crim Proc Susp ☐ Rein ☐ BW Ordered \$ ☐ Stayed ☐ To Issue

☐ Hrg on Motion ☐ Doubt Decl Pursuant PC 1368 ☐ No Cite Release/SCIT ☐ No Request ☐ Cash Only

☐ Granted ☐ Denied ☐ Submitted ☐ Off Cal ☐ Subm on Report ☐ Found ☐ BW Set Aside ☐ Recalled ☐ Filed ☐ Remain Out

☐ Stip to Comm ☐ Drs. Appointed ☐ Max Term ☐ Committed ☐ Proof of

☐ Prelim Wav ☐ Certified to General Jurisdiction ☐ MDA / COM Amended to

☐ Amended to ☐ (M) VC12500(a) / VC23103(a) ☐ Pur VC23103.5 ☐ DA Stmt Filed

PLEA Conditions: ☐ None ☐ No State Prison ☐ PC17 after 1 Yr Prob ☐ Includes VOP

☐ Jail / Prison Term of ☐ Add to Cal ☐ Vacate pending date

☐ Dismissal / Striking ☐ Subm time of Sent ☐ Harvey Stip

☐ Adv ☐ Max Pen ☐ Parole/Prob ☐ Appeal ☐ Immig ☐ Reg PC290/HS11590/PC457.1/PC186.30 ☐ Future Serious Felony ☐ PC12021/PC12316(b)(1)/VC14607.8/PC661

☐ Wav Right to ☐ Counsel ☐ Court / Jury Trial ☐ Subpoena / Confront / Examine Witnesses ☐ Self-incrimination ☐ Written Waiver filed ☐ Plea / Absentia filed

☐ COP ☐ GUILTY ☐ NOLO CONTENDERE to charges & admits enhancements / allegations / priors ☐ PC17 ☐ Arbuckle ☐ Factual Basis found ☐ Findings stated

☐ Prop 36 Granted / Unamenable / Refused / Term ☐ DEJ Eligibility Filed ☐ DEJ Granted / Rein / Term ☐ Fee \$ ☐ Guilty Plea Rendere

☐ Waives Referral ☐ Ref'd to APO Full Rpt ☐ FINES/FEES: PAY TO ☐ Ref to DOR ☐ TRAFFIC ☐ COURT ☐ TODAY Audit #

☐ Sent Suspended ☐ PROBATION DENIED ☐ COUNT \$ + PA \$ ☐ Purs HS11350d

PROBATION ☐ Execution ☐ Imposition of sentence suspended for probation period ☐ COUNT \$ + PA \$ ☐ PC290.3

☐ COURT ☐ FORMAL PROBATION GRANTED for Days / Mos / Yrs ☐ AIDS / CPP \$ + PA \$ ☐ SORP

☐ Report to APO within Days ☐ Terminated ☐ Upon Release ☐ DPF \$ + PA \$ ☐ EMAT \$

☐ Perform Hrs Volunteer Work as directed PO / SAP ☐ in lieu of fine/Jail ☐ LAB \$ + PA \$

☐ Not drive w/o valid DL & Ins ☐ Adv VC23600 ☐ HTO ☐ Re-refer ☐ DRF / RF \$ Add'l RF \$ ☐ Susp'd PC1202.44/

☐ MOP ☐ FOP ☐ 12 hrs ☐ 3 mos ☐ 9 mos ☐ Enroll within days ☐ AEF \$ Original Fine \$

☐ DL Susp/ Restr'd/ Rvk'd for ☐ IID Not/Ordered/ Rmvd Term Yrs ☐ SECA \$ CTS PC2900.5 \$

☐ No contact with victim or family / co-defts unless appr by APO ☐ PC1202.05 ☐ ICMF \$ TOTAL DUE \$

☐ DVPO issued / mod / term'd Exp ☐ Victim Present ☐ ICIN \$ Payments Granted / Modified

☐ No Contact ☐ Peaceful Contact ☐ DSA thru APO / DOR / CRT ☐ Filed ☐ AR \$ / Mo beginning

☐ Not own/possess deadly weapons ☐ Destroy/return weapon ☐ SHELTER \$ FINE STAYED

☐ Stay away from ☐ DV \$ Committed @ \$ /day ☐ May Pay Out

☐ Submit Search/Testing ☐ Educ/Voc Trng/Empl ☐ No alcohol / drugs or where sold ☐ ATTY \$ Consec/Conc to

☐ Substance Abuse, Psych, Theft, Anger Mgmt, DV, Parenting cnsl / prgm ☐ ASF\$25/CPF\$10 \$ Fine / Fees ☐ Deemed Satisfied ☐ Commuted

☐ PC296 (DNA) ☐ PC1202.1 HIV Test / Education ☐ P/INVEST \$ P/SUP \$ /Mo ☐ Waived

VOP: ☐ Wav ☐ Arr'd ☐ Admits/Denies Viol ☐ Court Finds VOP / No VOP ☐ CJAF \$129.75/\$259.50 \$ Add'l Fees Waived

Prob Rein / Mod / Term'd / Revoked / Remains Revoked / Ext to ☐ Restitution ☐ General \$ to

☐ Original Terms & Conditions Except as Amended herein ☐ As determined by APO/Court ☐ Referred to VWAC ☐ Collect Civilly

☐ Co-terminous with ☐ No Further Penalties / Reviews

Other:

JAIL/PRISON ☐ See Attachm't Pg for Add'l Orders, Charges, PC1385 Reasons

County Jail

Count F/M Violation Prison Term / Yrs Enhancement / Priors Yrs / Styd / Strkn HRS / DAYS / MOS

** DEFENDANT TO BE DRESSED OUT FOR JURY TRIAL. **									

Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Enhancement	Yrs/S	Total

CTS = ACT + ☐ PC4019 ☐ 1/2 ☐ PC2993.1 = TOTAL DAYS TOTAL TERM

☐ Straight time ☐ In Camp ☐ WWP ☐ PC1209 Fees ☐ Waived ☐ Court Rec ☐ All / Except ☐ EMP/PSP/ERP/DRP/Co Parole/NP

☐ Sent Deemed Served ☐ Rpt to Parole w/in ☐ Adv ☐ Yrs Parole/Appeal Rights ☐ Consec ☐ Conc to ☐ 8 1/2

☐ Bal CJ Susp ☐ All but ☐ Hrs/Days/Mos ☐ On Cond Complete Residential Treatment Prgm ☐ Serve Consec MO/TU/WE/TH/FR/SA/SU

☐ Pre-process ☐ AM/PM ☐ Stay / Surrender / Transport to ☐ @ ☐ AM/PM or Sooner

☐ REMANDED-BAIL \$ ☐ REMAIN AS SET ☐ NO BAIL ☐ COMMITTED ☐ RELEASED ☐ OR ☐ SORP ☐ JAC PHONE ASSMT ☐ P36

☐ AS COND OF SORP ☐ BAIL INCREASED / REDUCED ☐ TO PRGM AS REC BY JAC DOC TO ARRANGE TRANSPORT UPON AVAIL BED

DISTRIBUTION: ORIGINAL - FILE. GREEN - DOC. BLUE - CJC / DOR PURPLE - PROBATION. BROWN - DEFENDANT

DISTRIBUTION: ORIGINAL - FILE GREEN - DOC BLUE - CJIC / DOB PURPLE - PROBATION BROWN - DEFENDANT

JEFF ROSEN, DISTRICT ATTORNEY #163589  
 ALISON FILO, DEPUTY DISTRICT ATTORNEY # 18389  
 COUNTY GOVERNMENT CENTER, West Wing  
 70 W. Hedding St., 7<sup>th</sup> Floor  
 San Jose, CA 95110  
 Telephone: 408/792-2891

Attorneys for the People

**FILED**

JUN 11 2013

DAVID H. YAMASAKI  
 Chief Executive Officer/Clerk  
 Superior Court of Santa Clara County  
 BY [Signature] DEPUTY

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA**

PEOPLE OF THE STATE OF CALIFORNIA, )

NO. C1223754

Plaintiff, )

PEOPLE'S TRIAL BRIEF

vs. )

CRAIG CHANDLER, )

Defendant. )

**I.**

**FACTUAL HISTORY**

On Monday morning January 9, 2012, 7 year old second grader, Isabelle, told her mother, Luisana Villareal, that she didn't want to go to school. Her mother was surprised by Isabelle's attitude because her daughter had always enjoyed school. After her mother told Isabelle that she had to go to school, Isabelle said that she had something she had to tell her Mom. Ms. Villareal was stunned to hear her crying and scared 7 year old daughter relay how her second grade teacher, Craig Chandler, required her to stay in at recess so that

1 he could blindfold her and put an object into her mouth. Isabelle described the object as  
 2 long and round and said that Chandler would tell her to turn her tongue around it. Isabelle  
 3 said the object was big enough to make her "gag."

4 Ms. Villareal immediately went to the school Principal's office where she explained  
 5 to the acting Principal, Lea Peery, what her daughter had described. Ms. Peery's response  
 6 was "Oh no, not again." Ms. Villareal then demanded to know what was happening in her  
 7 daughter's classroom.  
 8

9 While Ms. Peery notified Chandler, Ms. Villareal contacted the San Jose Police  
 10 Department. Detective Sean Pierce of the San Jose Police Department was assigned to do  
 11 a full scale investigation.  
 12

13 The investigation was essentially conducted as follows ... all of Chandler's current  
 14 students were contacted. A team of investigators assisted with the interviews. If any of the  
 15 students disclosed anything which indicated that they had been made to engage in this  
 16 activity, they were immediately taken to the Child Interview Center where their interviews  
 17 could be audio and video taped. Despite the defendant's arrest, even a redacted police  
 18 report was not filed with the court so that no real details of the allegations could be made  
 19 public. Every effort was made to contain the possibility of contamination.  
 20

21 Victim #1 – Isabelle

22 Isabelle disclosed that Chandler had required her to stay back several times at  
 23 recess. She recalled that some of these incidents occurred prior to the Winter Break and on  
 24 approximately 3 occasions after the break. She said that Chandler would cover her eyes  
 25  
 26

1 with a scarf, a blindfold or a blanket and that he would then put something in her mouth.  
 2 She described the object as "round and kind of hard." She said that his hand would be on  
 3 the back of her head pushing her head forward and backward and that he would tell her to  
 4 "move her tongue around." Isabelle said that occasionally when he is done with the  
 5 "bigger object", he gives her a piece of candy and lets her guess what it is, but that he never  
 6 asked her to guess about the bigger object.  
 7

8 Isabelle did tell Detective Pierce that they had played this "game" in front of the  
 9 whole class one time.

10 Victim #2 - Becky

11 In October of 2011, third grade student Becky came home and told her mother, Kim  
 12 To, that Chandler would blindfold her and put items in her mouth. She remembered some  
 13 of the food items used, but described one item that she could not identify. Becky  
 14 remembered hearing something metal as the item was being put in her mouth – she actually  
 15 thought she heard the jangling of keys. She described the object in her mouth as round and  
 16 said that it consumed the size of her mouth. Becky said that Chandler told her not to bite.  
 17 Becky also said that on one occasion, something salty came out of the item and that it  
 18 dripped down onto her jacket, her pants and her shirt. She said the liquid was white or  
 19 maybe yellow. She said it happened two or three times that something "came out."  
 20

21 Upon learning what was happening in Chandler's classroom, Becky's mother went  
 22 to the school and met with the Principal, Lyn Vijayendran. Ms. Vijayendran met with  
 23 Becky who gave her a statement of what had happened in the classroom. Ms. Vijayendran  
 24

1 took notes of that conversation. Ms. Vijayendran also got information from Chandler. He  
 2 told Vijayendran that he was teaching a lesson on "Helen Keller" and that he would pull  
 3 students in to practice the big activity that they would eventually do in front of the entire  
 4 class. The biggest discrepancy between Becky and Chandler's statements was whether the  
 5 door was opened or closed. Becky described it as closed and Chandler insisted that it was  
 6 open. Vijayendran told Chandler unequivocally that the activity had to stop and that he  
 7 was not to blindfold students in his classroom and put things in their mouths. According to  
 8 Vijayendran, Chandler understood how his behavior could have been misinterpreted and  
 9 said he would not do the activity.  
 10

11 Vijayendran went on maternity leave approximately one month later. Very shortly  
 12 thereafter, Chandler resumed his aberrant behavior by assaulting Victim #1 – Isabelle.  
 13

14 In November of 2012, Lyn Vijayendran was tried and convicted by a jury of  
 15 violating Penal Code section 11166 - failing to report a suspected act of child abuse to law  
 16 enforcement or Child Protective Services.  
 17

#### 18 Victim #3 – Laurie

19 Laurie described having to stay behind at recess to play the game with Chandler.  
 20 Laurie remembered that it was before the Winter Break. She said that she was required to  
 21 take her shoes off and put her feet up on the desk. She described a marker, a pen and  
 22 "something else." She described the "something else" as a glue stick – saying that it felt a  
 23 little bumpy on the bottom, but also "smooth and hard." She said that she was in the  
 24 classroom with Chandler alone and that the door was closed. She only remembers items  
 25  
 26

1 being rubbed on her feet.

2 As it turns out, Chandler has a history of fascination with feet. In 2005, a fellow  
3 teacher, Hilda Keller, lodged a sexual harassment complaint against Chandler. She alleged  
4 that Chandler came into her classroom, closed the door, and asked if he could take pictures  
5 of her toes for a massage therapy class that he was taking. He also asked if he could  
6 massage her feet. In combination with Chandler's inappropriate discussions about sexual  
7 relations with his wife and whether or not Keller needed a "boob job", Keller filed a formal  
8 complaint and asked to be transferred to another school. Chandler was reprimanded with a  
9 letter of discipline from the School District.  
10

11 Victim #4 – Wendy

12 Wendy described a few different incidents with Chandler. In the first, Wendy and  
13 her friend Melissa were asked to stay behind during recess. They were told to lie down on  
14 the floor and bags were put over their heads. The children were told to take off their shoes  
15 and socks. Wendy specifically stated that Chandler used a part of his body to rub her feet,  
16 but did not know which part of his body it was. She remembered feeling "grossed out"  
17 while this was occurring. Wendy said this happened several times.  
18

19 Wendy said after a few weeks, Chandler had them sit up in a chair, blindfolded,  
20 while he put something in her mouth. When asked how big the object was, Wendy put her  
21 index finger and thumb together in the shape of a circle and declared that to be the size of  
22 the object that Chandler put in her mouth. Wendy said that she was unable to close her  
23 mouth around the object. She also said that Chandler was an "inch" away from her and  
24  
25  
26



1 that she knew his knees were directly in front of her. Wendy said that Chandler would  
 2 repeatedly push the object into her mouth and that one of his hands was on the back of her  
 3 head.

4 Wendy was asked whether she heard any noise prior to the body part being rubbed  
 5 on her feet. Wendy said she heard a "clicking noise" that she better described as a belt  
 6 being taken off when "the metal hits." She heard the same sound when she was sitting in  
 7 the chair.  
 8

9 Victim #5 – Arleth

10 A few days after news of Chandler's arrest broke, a former student of Chandler's,  
 11 Arleth, was talking to her cousin, Noemi. Arleth asked her cousin if she could go to jail for  
 12 telling her about a teacher. Noemi assured Arleth that she would not get in trouble for  
 13 telling her anything about a teacher. At that point, Arleth disclosed to her cousin that  
 14 Chandler had kept her in during lunch, blindfolded her and put an object in her mouth.  
 15

16 The police were contacted and Arleth was interviewed at the Child Interview  
 17 Center. Arleth was able to identify the place within the classroom in which she was told to  
 18 sit down in a chair. Chandler gave her a blindfold and told her to put it over her eyes.  
 19 Chandler then put something in her mouth and told her to "lick it." Arleth described the  
 20 object as "squishy" and "weird." The object was in her mouth for 5-10 minutes. Chandler  
 21 told her to continue licking it and she heard "sounds." Arleth could feel Chandler's legs in  
 22 front of her. She said the item felt like "skin." Most notably, Arleth was able to peek  
 23 underneath the blindfold and she was able to both see and feel hair around the object that  
 24  
 25  
 26



1 was in her mouth. Arleth also said that she could see Chandler's pants down and saw him  
2 pull his pants up after the incident was over. She said he was wearing white underwear.

3 While the object was still in her mouth she felt something "come out of the thing."  
4 She described the "drink" as tasting bad and said that she had no choice but to "drink it"  
5 because she couldn't talk while the "drink" was inside her mouth.  
6

7 Arleth described the second incident as having occurred the day after the first  
8 incident and at least two incidents following the first two.

9 After the Disclosures

10 At 6:45 a.m. on January 10, 2012, the day after the police were notified, Armando  
11 Lara, the Acting Assistant Principal, saw Chandler exit his car carrying a white plastic  
12 grocery type bag. Lara immediately called the Acting Principal, Lea Peery, and was  
13 informed that Chandler was not to be on campus and that he needed to be escorted off the  
14 premises immediately. Lara met with Dan Deguarra, the Director of Educational Services,  
15 and they went to Chandler's classroom. They found the door to the classroom closed and  
16 locked so Mr. Deguarra used his key to gain entrance.  
17

18 Chandler was found standing by his desk. He was told that he was being placed on  
19 Administrative Leave and that he would be escorted off the property. Chandler asked if he  
20 could take some personal things and picked up some paperwork on his desk. He then  
21 picked up a bottle of Lysol and a container of Clorox handy wipes and put them in his bag  
22 before being escorted off campus.  
23  
24  
25  
26

II.

WITNESS LIST

The Prosecution reserves the right to call the following witnesses:

1. Isabella (last name to be omitted from record)
2. Luisana Villareal
3. Becky Duong (last name to be omitted from record)
4. Kim To
5. Laurie (last name to be omitted from record)
6. Jonothan Ibanez
7. Wendy (last name to be omitted from record)
8. Arleth (last name to be omitted from record)
9. Noemi Gonzales
10. Ashlyn Danh
11. Melissa Valtierra
12. Lyn Vijayendran
13. Ann Dinh
14. Maria Leon
15. Sue Callahan
16. Dorothy Catangay
17. Marcus Armendariz
18. Mary Carpio
19. Carl Duya
20. Chris Gallardo Chipres
21. Ly Van Huynh
22. Veronica Lopez
23. Natalie Nguyen
24. Jayden Pham
25. Kevin Sam
26. Wilmer Samson
27. Vivian To
28. Jorge Romero
29. Meriessa Cruz
30. Vy Tu Tran
31. Alfredo Cabrera Cruz
32. Diego Gomez

33. Doi Pham
34. Lea Peery
35. Armando Lara
36. Hilda Keller
37. Pedro Armendariz
38. Sara Zuniga
39. Mary Montgomery
40. Lyn Vijayendran
41. SJPd Officer Sean Pierce;
42. Former SJPd Officer Russ Chubon;
43. SJPd Officer Lisa Tindall;
44. SJPd Officer Lauren Vidal;
45. SJPd Officer Mark Natividad;
46. SJPd Officer Emilio Perez;
47. SJPd Officer Chris Harden
48. SJPd Officer Robert Dillon
49. Santa Clara County Criminalist - Kristin Cardosa

### III.

#### MOTIONS IN LIMINE

#### 1. Statements of the Children Describing the Acts are Independently Admissible Under Penal Code Section 1360

In physical abuse, neglect, or sexual abuse cases, Evidence Code section 1360 allows out-of-court statements of children to be presented in court as exceptions to the hearsay rule. Sufficiently in advance of this trial, the People provided the defense with police reports, recordings, etc., summarizing each child's description of what happened to her.

In pertinent part, the code section states:

- (a) In a criminal prosecution where the victim is a minor, a statement made by the victim when under the age of 12 describing an act of child abuse or neglect performed with or on the child by another, or describing any attempted act of child abuse or neglect with or on the child by another, is not made inadmissible by the hearsay rule if all of the following apply:

- (1) The statement is not otherwise admissible by statute or court rule.
  - (2) The court finds, in a hearing conducted outside the presence of the jury, that the time, content, and circumstances of the statement provide sufficient indicia of reliability.
  - (3) The child either:
    - (A) Testifies at the proceedings.
    - (B) Is unavailable as a witness, in which case the statement may be admitted only if there is evidence of the child abuse or neglect that corroborates the statement made by the child;
- (b) A statement may not be admitted under this section unless the proponent of the statement makes known to the adverse party the intention to offer the statement and the particulars of the statement sufficiently in advance of the proceedings in order to provide the adverse party with a fair opportunity to prepare to meet the statement.

In the instant case, there are multiple 1360 statements that the People seek to admit:

1. Victim #1 – Isabelle:
  - a. Unrecorded oral statement to her mother, witness Luisiana Villareal,
  - b. Video taped statement to Detective Sean Pierce;
  - c. Preliminary Hearing transcript;
2. Victim #2 – Becky:
  - a. Unrecorded oral statement to her mother, Kim To;
  - b. Memorialized statement to Principal Lyn Vijayendran;
  - c. Video taped statement to Detective Sean Pierce;
  - d. Preliminary Hearing transcript;
3. Victim #3 – Laurie:
  - a. Video taped statement to Detective Tindall;
  - b. Preliminary Hearing Transcript;
4. Victim #4 – Wendy:
  - a. Video-taped statement to Detective Vidal
  - b. Preliminary Hearing Transcript
5. Victim #5 – Arleth
  - a. Unrecorded statement to Noemi Gonzales
  - b. Video-taped statement to Detective Emilio Perez;
  - c. Preliminary Hearing transcript;

Each of the above-described statements are pursuant to Evidence Code section 1360. Each is a statement describing an act of child abuse with content and timing which sufficiently indicates reliability. Accordingly, the People ask that each statement be admitted. If the defense demands a foundational hearing, the People ask that any such hearing be conducted outside the presence of the jury and prior to the witnesses' testimony.

2. Expert Testimony on the Topic of Grooming is Not Akin to Profile Evidence and is Therefore Permissible

There is a settled line of authority that holds that evidence of the modus operandi of a particular crime or a particular common method of committing a crime is a proper subject matter for expert testimony. If the subject matter meets the ordinary test of relevance and is sufficiently beyond ordinary experience. 31 A.L.R. 4<sup>th</sup> section 2.

Improper use of profile evidence must be distinguished from admissible expert testimony regarding established ways in which crimes are committed (*People v. Prince* (2007) 40 Cal.4<sup>th</sup> 1179, 1223-1226.) The California Supreme Court has stated that an expert may testify regarding criminal modus operandi (*Id.*)

Defense counsel may try to argue that expert testimony regarding grooming cannot be admitted because it is akin to profile evidence. Detective Dillon, if permitted to testify, will not testify regarding a profile nor will he opine that the defense or his conduct fits any profile. Just as experts in Child Sexual Abuse Accommodation Syndrome do not testify

1 regarding the specific facts of the case at bar, neither will Detective Dillon.

2 In *Jones v. United States* (2010) 990 A.2d 970, the court dealt directly with the  
3 topic of grooming. The expert in the *Jones* case did not know the facts nor did he express  
4 any opinion on the defendant's guilt or the credibility of his accusers. The expert, an FBI  
5 agent who had worked thousands of sexual assault cases, testified that grooming "is a  
6 process where the abuser identifies and tries to fill a child's needs ... [A]fter forming a  
7 relationship of trust, the abuser undertakes to manipulate the child and overcome sexual  
8 inhibitions. Contrary to popular belief, child molesters do not force themselves on  
9 victims." (*Id.* At 976.)

11 The court admitted the testimony as helpful to a jury to explain not only "how child  
12 molesters accomplish their crimes without violence, but also why a child victim would  
13 acquiesce and be reluctant to turn against him. (*Id.*) The expert did not testify that Jones  
14 fit any profile or even that child molesters have a profile.

16 In *United States v. Long* (D.C. Cir. 2003) 328 F.3d 655, 665, an expert testified  
17 regarding the seduction process through which sex offenders use attention, kindness, gifts  
18 and money to lower the victims' inhibitions. The Defense argued that this was profile  
19 evidence and therefore inadmissible. The trial court disagreed and the conviction was  
20 upheld on appeal. What the court indicated that the expert could not do was suggest some  
21 special knowledge of the Defendant's mental processes. The permissible purpose was to  
22 identify the behavior and actions of child molesters and explain their modus operandi. (*Id.*  
23 At 668.)

1 Detective Dillon will render no opinion on this defendant or his conduct. He will  
 2 not compare the defendant to any actions or defendants in other cases. He will not cite any  
 3 statistics. Lastly, he will not opine regarding the veracity of the victims. He will simply  
 4 educate the jury regarding a subject that is not common knowledge amongst jurors.  
 5

6 IV.

7 JURY INSTRUCTIONS REQUESTED

8 The People respectfully request that the following jury instructions be given:

9 200  
 10 201  
 11 202  
 12 121  
 13 207  
 14 208  
 15 220  
 16 222  
 17 223  
 18 225  
 19 226  
 20 252  
 21 300  
 22 301  
 23 302  
 24 303  
 25 318  
 26 330  
 332  
 333  
 355  
 357  
 358  
 359  
 370  
 1110 (288(a) – lewd & lascivious conduct no force or fear)  
 960 (simple battery)  
 915 (simple assault)

1 1190  
2 3516  
3 3519  
4 3530  
5 3550  
6 3577  
7 3590  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

14

862

Jeffrey F. Rosen  
District Attorney  
County of Santa Clara  
San Jose, CA 95110

People's Trial Brief



TRIAL SCHEDULE

13 MONDAY	14 TUESDAY	15 WEDNESDAY	16 THURSDAY	17 FRIDAY
		11 am: MD	9:30 start?	

20 MONDAY	21 TUESDAY	22 WEDNESDAY	23 THURSDAY	24 FRIDAY

27 MONDAY	28 TUESDAY	29 WEDNESDAY	30 THURSDAY	31 FRIDAY

3 MONDAY	4 TUESDAY	5 WEDNESDAY	6 THURSDAY	7 FRIDAY

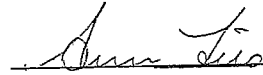
10 MONDAY	11 TUESDAY	12 WEDNESDAY	13 THURSDAY	7 FRIDAY

1 Dated: May 11, 2013

Respectfully submitted,

JEFFREY ROSEN  
DISTRICT ATTORNEY

2  
3  
4 By

  
ALISON FILO  
Deputy District Attorney

BRIAN MADDEN, SB# 55869  
MADDEN & REDDING  
1625 The Alameda, Suite 801  
San Jose, California 95126  
Telephone: (408) 275-8100  
Facsimile: (408) 275-8199

Attorney for Defendant  
CRAIG RICHARD CHANDLER

**FILED**

JUN 11 2013

DAVID H. YAMASAKI  
Chief Executive Officer/Clerk  
Superior Court of CA County of Santa Clara  
BY [Signature] DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA CLARA

THE PEOPLE OF THE STATE OF CALIFORNIA,  
Plaintiff,

vs.

CRAIG RICHARD CHANDLER,  
Defendant.

Case No. C1223754

DEFENDANT'S  
MOTIONS IN LIMINE

Madden & Redding  
Attorneys at Law  
1625 The Alameda, Suite 801  
San Jose, CA 95126  
(408) 275-8100

1. MOTION TO EXCLUDE, FOR PURPOSES OF IMPEACHMENT,  
EVIDENCE OF PRIOR CONVICTIONS

2. MOTION TO ADMIT TESTIMONY FROM DR. WILLIAM O'DONOHUE  
AN EXPERT IN THE INTERVIEWING OF VICTIMS OF CHILD SEXUAL ABUSE

3. MOTION TO EXCLUDE EVIDENCE RELATED TO AN INCIDENT  
INVOLVING MR. CHANDLER AND HILDA KELLER

4. MOTION TO EXCLUDE THE TESTIMONY OF MARY MONTGOMERY  
ABOUT THE DOOR TO MR. CHANDLER'S CLASSROOM BEING LOCKED ON ONE  
OCCASION

5. MOTION TO EXCLUDE "GROOMING" EVIDENCE

866